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FEDERAL SECURITY AGENCY

FOOD AND DRUG ADMINISTRATION

NOTICES OF JUDGMENT UNDER THE FEDERAL FOOD, DRUG, AND COSMETIC ACT

[Given pursuant to section 705 of the Food, Drug, and Cosmetic Act]

12601-12800

FOODS

The cases reported herewith were instituted in the United States district courts by the United States attorneys acting upon reports submitted by direction of the Federal Security Administrator.

J. DONALD KINGSLEY, *Acting Administrator, Federal Security Agency.*

WASHINGTON, D. C., May 28, 1948.

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BEVERAGES AND BEVERAGE MATERIALS*

12601. Adulteration of beer. U. S. v. Harold F. McEvoy. Plea of guilty. Fine, \$125. (F. D. C. No. 23290. Sample Nos. 25059-H, 32562-H, 50062-H, 50063-H, 53529-H.)

INFORMATION FILED: October 10, 1947, Western District of Wisconsin, against Harold F. McEvoy, president of the Hartig Company, Watertown, Wis.

ALLEGED SHIPMENT: Between the approximate dates of September 11 and 25, 1946, from the State of Wisconsin into the States of Louisiana, Alabama, California, and Tennessee.

LABEL, IN PART: "Old Wisconsin Premium Beer [or "Hartig Special Beer"] Brewed and Bottled by The Hartig Company, Watertown, Wis."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance; Section 402 (a) (4), it had been prepared and packed under insanitary conditions whereby it may have become contaminated with filth; and, Section 402 (a) (2), (Hartig Special Beer) the product contained an added poisonous and deleterious substance, monochloroacetic acid, which is unsafe within the meaning of the law, since

*See also No. 12792.

it is a substance not required in the production of the food and could have been avoided by good manufacturing practice.

DISPOSITION: January 20, 1948. A plea of guilty having been entered, the defendant was fined \$125.

12602. Adulteration of tomato juice. U. S. v. Billman-Woodard Company, Elmer Billman, and Ormand H. Woodard. Pleas of guilty. Fines, \$100 against company and \$1 against each individual. (F. D. C. No. 22020. Sample No. 53522-H.)

INFORMATION FILED: April 2, 1947, Southern District of Indiana, against the Billman-Woodard Company, a partnership, Hope, Ind., and Elmer Billman and Ormand H. Woodard, members of the partnership.

ALLEGED SHIPMENT: On or about September 5, 1946, from the State of Indiana into the State of Tennessee.

LABEL, IN PART: "Clifty Valley Brand * * * Tomato Juice."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in part of a filthy substance by reason of the presence of fly eggs and maggots, and of a decomposed substance by reason of the presence of decomposed tomato material; and, Section 402 (a) (4), it had been prepared and packed under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: June 30, 1947. Pleas of guilty having been entered, the court imposed fines of \$100 against the company and \$1 against each individual.

12603. Adulteration and misbranding of tomato juice. U. S. v. Verland V. Erntson Albany Canning Co.). Plea of guilty. Fine, \$100. (F. D. C. No. 17850. Sample No. 98437-F.)

INFORMATION FILED: May 22, 1946, against Verland V. Erntson, trading as the Albany Canning Co., Albany, Oreg.

ALLEGED SHIPMENT: On or about November 21, 1944, from the State of Oregon into the State of Missouri.

PRODUCT: Tomato product invoiced as "Tomato Juice."

LABEL, IN PART: (Cases) "Tomato Pulp."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of decomposed tomato material.

Misbranding, Section 403 (g) (1), the article purported to be tomato juice and failed to conform with the regulations, since it had not been strained free from skins and seeds, as required by the definition and standard of identity promulgated for tomato juice.

DISPOSITION: January 23, 1947. Plea of guilty; fine, \$100.

12604. Adulteration of tomato juice. U. S. v. Garden State Canning Co. and Norman W. Frazer. Pleas of guilty. Fine of \$500 against each defendant. (F. D. C. No. 22035. Sample No. 65621-H.)

INFORMATION FILED: June 27, 1947, District of New Jersey, against the Garden State Canning Co., a corporation, and Norman W. Frazer, president.

ALLEGED SHIPMENT: On or about August 23, 1946, from the State of New Jersey into the State of Pennsylvania.

LABEL, IN PART: "Farm Fresh Brand Tomato Juice."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in part of a decomposed substance by reason of the presence of decomposed tomato material.

DISPOSITION: July 14, 1947. Pleas of guilty having been entered, the court sentenced each defendant to a fine of \$1,000, \$500 of which was suspended.

12605. Adulteration of tomato juice. U. S. v. 390 Cartons * * *. (F. D. C. No. 21225. Sample No. 64452-H.)

LIBEL FILED: October 8, 1946, Southern District of New York.

ALLEGED SHIPMENT: On or about August 27, 1946, by Walter L. Rathbun, Inc., from Phalanx, N. J.

LABEL, IN PART: "White Rose Pure Tomato Juice * * * Seeman Brothers Incorporated Distributors New York, N. Y."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance. (Examination showed that the product contained decomposed tomato material.)

DISPOSITION: June 24, 1947. Walter L. Rathbun, claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was released under bond, conditioned that the fit portion be used in the manufacture of tomato puree or tomato catsup and that the unfit portion be denatured or destroyed under the supervision of the Food and Drug Administration.

12606. Adulteration of tomato juice. U. S. v. 690 Cases * * *. (F. D. C. No. 21881. Sample No. 61116-H.)

LIBEL FILED: December 23, 1946, Western District of Pennsylvania.

ALLEGED SHIPMENT: On or about November 2, 1946, by Westfield Planters Cooperative Fruit Products, Inc., from Westfield, N. Y.

PRODUCT: 690 cases, each containing 6 3-quart cans, of tomato juice at Pittsburgh, Pa.

LABEL, IN PART: "Edelweiss Tomato Juice."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of decomposed tomato material.

DISPOSITION: March 18, 1947. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

12607. Adulteration of tomato juice. U. S. v. 987 Cases * * *. (F. D. C. No. 22524. Sample No. 60554-H.)

LIBEL FILED: February 13, 1947, Western District of Pennsylvania.

ALLEGED SHIPMENT: On or about September 19, 1946, by the Mel Williams Corporation, from Sonoma, Calif.

PRODUCT: 987 cases, each containing 12 48-ounce cans, of tomato juice at Pittsburgh, Pa.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance.

DISPOSITION: March 3, 1947. M. Rom and Sons Company, Inc., Pittsburgh, Pa., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond for segregation and destruction of the unfit portion, under the supervision of the Food and Drug Administration.

12608. Adulteration of tomato juice. U. S. v. 433 Cases * * *. (F. D. C. No. 22433. Sample No. 52043-H.)

LIBEL FILED: January 25, 1947, District of Minnesota.

ALLEGED SHIPMENT: On or about November 22, 1946, by Roach-Indiana Corporation, from Arlington, Ind.

PRODUCT: 433 cases, each containing 6 3-quart cans, of tomato juice at Minneapolis, Minn.

LABEL, IN PART: "Tomato Juice Good. N. Full."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of decomposed tomato material.

DISPOSITION: March 31, 1947. No claimant having appeared, judgment was entered and the product was ordered destroyed or disposed of as animal feed.

12609. Adulteration of tomato juice. U. S. v. 608 Cases * * *. (F. D. C. No. 22214. Sample No. 65964-H.)

LIBEL FILED: January 24, 1947, Eastern District of Pennsylvania.

ALLEGED SHIPMENT: On or about November 27, 1946, by the Southern Packing Co., from Smithburg, Md.

PRODUCT: 608 cases, each containing 12 1-quart, 14-fluid ounce cans, of tomato juice at Philadelphia, Pa.

LABEL, IN PART: "Tartan Tomato Juice Distributed By Alfred Lowry & Bro. Philadelphia, Pa."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of decomposed tomato material.

DISPOSITION: April 8, 1947. The Southern Packing Co., claimant, having withdrawn its claim, judgment of condemnation was entered and the product was ordered destroyed.

12610. Misbranding of tomato juice. U. S. v. 1,496 Cases * * *. (F. D. C. No. 22211. Sample No. 74001-H.)

LIBEL FILED: January 24, 1947, District of Massachusetts.

ALLEGED SHIPMENT: On or about November 15, 1946, by Colo Flavor Products, Inc., from Palisade, Colo.

PRODUCT: 1,496 cases, each containing 12 cans, of tomato juice at Cambridge, Mass. Examination showed that the product was short-volume.

LABEL, IN PART: "Co-Op Tomato Juice Salt Added Grade A Contents 1 qt. 14 fl. oz. Packed for National Co-operatives, Inc. Chicago, Illinois."

NATURE OF CHARGE: Misbranding, Section 403 (e) (2), the label of the article failed to contain an accurate statement of the quantity of the contents.

DISPOSITION: May 5, 1947. Colo Flavor Products, Inc., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond, conditioned that it be relabeled in compliance with the law, under the supervision of the Federal Security Agency.

12611. Misbranding of tomato juice. U. S. v. 529 Cases * * *. (F. D. C. No. 24025. Sample No. 7046-K.)

LIBEL FILED: December 22, 1947, Western District of Pennsylvania.

ALLEGED SHIPMENT: On or about August 20, 1947, by the Mason Canning Co., from Pocomoke, Md.

PRODUCT: 529 cases, each containing 12 cans, of tomato juice at Altoona, Pa.

LABEL, IN PART: "Iona Tomato Juice Net Contents 1 Qt. 14 Fl. Ozs. The Great Atlantic & Pacific Tea Co., New York, N. Y."

NATURE OF CHARGE: Misbranding, Section 403 (e) (2), the product failed to bear a label containing an accurate statement of the quantity of the contents. (Examination showed that the product was short-volume.)

DISPOSITION: February 11, 1948. The Mason Canning Co., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be relabeled or recanned under the supervision of the Food and Drug Administration.

12612. Adulteration of maltose sirup. U. S. v. Malt Products Corporation of New Jersey, Jacob Teich, and Aaron Gross. Pleas of guilty. Corporation fined \$1,000; individuals each fined \$500. (F. D. C. No. 23336. Sample Nos. 64882-H, 65978-H.)

INFORMATION FILED: September 4, 1947, District of New Jersey, against the Malt Products Corporation of New Jersey, a corporation, Maywood, N. J., and Jacob Teich, president, and Aaron Gross, secretary-treasurer.

ALLEGED SHIPMENT: On or about February 14 and March 3, 1947, from the State of New Jersey into the States of New York and Pennsylvania.

LABEL, IN PART: "Superior Maltose Syrup."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a filthy substance by reason of the presence of rodent hair fragments; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: October 10, 1947. Pleas of guilty having been entered on behalf of the defendants, the corporation was fined \$1,000 and the individual defendants were each fined \$500.

12613. Adulteration of imitation sirup. U. S. v. 92 Bottles * * *. (F. D. C. No. 21582. Sample No. 53455-H.)

LIBEL FILED: November 7, 1946, Eastern District of Kentucky.

ALLEGED SHIPMENT: On or about April 23, 1946, by the Gladdy Sales Company, from New York, N. Y.

PRODUCT: 55 1-gallon bottles of imitation strawberry-flavored sirup and 37 1-gallon bottles of imitation lemon- and lime-flavored sirup at Middlesboro, Ky. Examination showed that the products were in an active state of fermentation.

LABEL, IN PART: "Carole Brand Imitation Strawberry Flavored Syrup [or "Imitation Lemon & Lime Flavored Syrup"]."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the articles consisted in whole or in part of decomposed substances.

DISPOSITION: December 4, 1946. No claimant having appeared, judgment of condemnation was entered and the products were ordered destroyed.

12614. Misbranding of Ar-O Inhibitor. U. S. v. 10 Jugs * * *. F. D. C. No. 22365. Sample No. 67824-H.)

LIBEL FILED: January 7, 1947, Western District of Oklahoma.

ALLEGED SHIPMENT: On or about June 4, 1946, by the Penrith-Akers Manufacturing Co., from Minneapolis, Minn.

PRODUCT: 10 1-gallon jugs of Ar-O Inhibitor at Altus, Okla.

LABEL, IN PART: "Ar-O A Neutral Inhibitor Containing Quaternary Ammonium Chloride. Directions ½-Fluid Ounce to Each Gallon Bottling Syrup ½ Ounce to 5 Gallons of Finished Drink That Is Not Carbonated."

NATURE OF CHARGE: Misbranding, Section 403 (a), the labeling of the article was misleading, since the label statement "Ar-O A Neutral Inhibitor" coupled with the directions for use, represented that the article was wholesome and suitable for use as a component of foods for man, whereas it contained per 100 cc. about 1.68 grams of quaternary ammonium compound, a poisonous and deleterious substance; and the labeling of the article failed to reveal the material fact that the article contained a poisonous and deleterious substance.

DISPOSITION: February 14, 1947. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

CEREALS AND CEREAL PRODUCTS

BAKERY PRODUCTS

12615. Adulteration of bakery products. U. S. v. Hy-Klas Food Products, Inc., and Charles J. Nelson. Pleas of guilty. Fine of \$800 and costs imposed jointly against the defendants. (F. D. C. No. 23299. Sample Nos. 67767-H, 67769-H, 67771-H, 67774-H, 68318-H to 68320-H, incl., 68324-H.)

INFORMATION FILED: September 17, 1947, Western District of Missouri, against Hy-Klas Food Products, Inc., St. Joseph, Mo., and Charles J. Nelson, secretary-treasurer.

ALLEGED SHIPMENT: On or about December 20, 1946, and February 7, 1947, from the State of Missouri into the State of Kansas.

LABEL, IN PART: "Hy-Klas * * * Golden Crust Sliced Bread [or "Rye Bread," or "Wheat Bread"]," or "Hy-Klas Coney Buns."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the products consisted in whole or in part of filthy substances by reason of the presence of insect fragments and rodent hairs; and, Section 402 (a) (4), they had been prepared under insanitary conditions whereby they may have become contaminated with filth.

DISPOSITION: September 19, 1947. Pleas of guilty having been entered, a fine of \$800 and costs was imposed jointly against the defendants.

12616. Adulteration of bakery products. U. S. v. Jake Shindler (Iowa Baking Co.). Plea of nolo contendere. Fine, \$240 and costs. (F. D. C. No. 23591. Sample Nos. 87009-H to 87015-H, incl.)

INFORMATION FILED: November 5, 1947, Northern District of Iowa, against Jake Shindler, trading as the Iowa Baking Co., Sioux City, Iowa.

ALLEGED SHIPMENT: On or about May 26, 1947, from the State of Iowa into the State of Nebraska.

LABEL, IN PART: "Splendid * * * Fruit Rolls [or "Pastries Milwaukee Rye," "French Bread," "Bread Sliced," "Pumpernickel Rye," "Wheat Bread," or "Cracked Wheat Bread"]."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the products consisted in whole or in part of filthy substances by reason of the presence of insect fragments, mites, rodent hairs, and hair fragments; and, Section 402 (a) (4), they had been prepared and packed under insanitary conditions whereby they may have become contaminated with filth.

DISPOSITION: November 5, 1947. A plea of nolo contendere having been entered, the defendant was fined \$240, plus costs.

12617. Adulteration of ice cream cones. U. S. v. 100 Cases * * * (and 2 other seizure actions). (F. D. C. Nos. 23523, 23541, 23549. Sample Nos. 74898-H, 87249-H, 88101-H.)

LIBELS FILED: On or about August 6 and 7 and September 8, 1947, District of Rhode Island and District of Connecticut.

ALLEGED SHIPMENT: On or about May 5 and 10 and June 6, 1947, by the Automatic Cone Co., from Cambridge, Mass.

PRODUCT: Ice cream cones. 100 cases, each containing 10 boxes, at Providence, R. I.; 47 cases, each containing 10 boxes, at Hartford, Conn.; and 410 cartons at Newport, R. I. Each of the boxes and cartons contained 100 cones.

LABEL, IN PART: "Octagon Sonny Cake Cones."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent hair fragments; and, Section 402 (a) (4), the Hartford and Newport lots had been prepared under insanitary conditions whereby they may have become contaminated with filth.

DISPOSITION: October 10 and December 19, 1947. Default decrees of condemnation. The Hartford lot was ordered delivered to a Federal institution for use as hog feed, and the other lots were ordered destroyed.

12618. Adulteration of peanut butter sandwiches and cookies. U. S. v. The G. L. Baking Co. Plea of guilty. Fine, \$300 and costs. (F. D. C. No. 24044. Sample Nos. 85528-H to 85536-H, incl.)

INFORMATION FILED: December 2, 1947, District of Maryland, against the G. L. Baking Co., a corporation, Frederick, Md.

ALLEGED SHIPMENT: On or about July 1, 1947, from the State of Maryland into the State of Pennsylvania.

LABEL, IN PART: (Peanut butter sandwiches) "The G. L. Baking Co. 5¢ * * * Dixie Cheese"; (cookies) "Sonny Boy" [or "Black Peak," or "Newsboy"] * * * The G. L. Baking Co."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the articles consisted in part of filthy substances by reason of the presence of insect larval head capsules, larval insect cast skin, insect fragments, rodent hair fragments, an ant, an insect larva, a rodent excreta pellet, and feather fragments; and, Section 402 (a) (4), they had been prepared and packed under insanitary conditions whereby they may have become contaminated with filth.

DISPOSITION: January 16, 1948. A plea of guilty having been entered on behalf of the defendant, the court imposed a fine of \$50 on each of 6 counts, plus costs.

12619. Adulteration of cookies. U. S. v. 60 Cases * * * (and 1 other seizure action). (F. D. C. Nos. 23792, 23884. Sample Nos. 206-K, 26325-K, 26326-K.)

LIBELS FILED: October 3 and November 3, 1947, Eastern District of Missouri and Western District of South Carolina.

ALLEGED SHIPMENT: On or about September 6 and 11, 1947, by the Deer Park Baking Co., Inc., from Springfield, Ill.

PRODUCT: Cookies. 22 cases, each containing 24 10-ounce packages, and 38 cases, each containing 24 8-ounce packages, at St. Louis, Mo., and 44 boxes, each containing 24 1-ounce cellophane packages, at Clemson, S. C.

LABEL, IN PART: "Deer Park Sandwich Cookies ["Chocolate Chip"]," or "Nods 5¢ Club Assortment."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of larvae, rodent hair fragments, and insect fragments; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: October 29 and December 3, 1947. Default decrees of condemnation and destruction.

12620. Adulteration of cookies. U. S. v. 7 Cases * * *. (F. D. C. No. 23883. Sample No. 8758-K.)

LIBEL FILED: November 5, 1947, Southern District of New York.

ALLEGED SHIPMENT: On or about October 1, 1947, by the Affiliated Bakers Co., Newark, N. J.

PRODUCT: 7 cases, each containing 12 12-ounce cans, of cookies at New York, N. Y.

LABEL, IN PART: "Chocolate Fudge Tarties."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent hair fragments, insects, and insect fragments; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: December 11, 1947. Default decree of condemnation and destruction.

12621. Adulteration of Fritos (corn product). U. S. v. 47 Dozen packages, etc. (F. D. C. No. 24332. Sample No. 4348-K.)

LIBEL FILED: February 5, 1948, District of Maine.

ALLEGED SHIPMENT: On or about December 22, 1947, by the New England Fritos Corporation, from Boston, Mass.

PRODUCT: Fritos. 47 dozen 1-ounce packages and 34 dozen 2-ounce packages at Waterville, Maine.

LABEL, IN PART: "Fritos Golden Chips of Corn Whole Grain Corn."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent hair fragments and insect parts; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: February 27, 1948. Consent decree of condemnation and destruction.

12622. Adulteration of pretzel sticks. U. S. v. J. Reisman & Sons, Inc., George Reisman, and Nathan Reisman. Plea of nolo contendere by corporation; plea of not guilty by individuals. Corporation fined \$500; individuals found not guilty. (F. D. C. No. 23571. Sample Nos. 66090-H, 87530-H, 87564-H, 87565-H.)

INFORMATION FILED: April 30, 1947, Eastern District of Pennsylvania, against J. Reisman & Sons, Inc., Philadelphia, Pa., and George Reisman, vice president, and Nathan Reisman, secretary-treasurer.

ALLEGED SHIPMENT: On or about April 14, 15, and 16, 1947, from the State of Pennsylvania into the States of New Jersey and New York.

LABEL, IN PART: "Reisman's Pretzel-Sticks [or "Butter Pretzels"]."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent hair fragments, insects, and insect fragments; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: November 26, 1947. A plea of nolo contendere having been entered by the corporation, a fine of \$500 was imposed. Pleas of not guilty having been entered by the individuals, the court found them not guilty.

12623. Adulteration of pretzels. U. S. v. Becker Pretzel Bakeries, Inc., and Charles W. Fischer. Pleas of guilty. Each defendant fined \$75 and costs. (F. D. C. No. 23325. Sample Nos. 64896-H, 64897-H, 90297-H, 90608-H, 90760-H, 90762-H.)

INFORMATION FILED: August 18, 1947, District of Maryland, against Becker Pretzel Bakeries, Inc., Baltimore, Md., and Charles W. Fischer, plant superintendent.

ALLEGED SHIPMENT: Between the approximate dates of February 12 and 25, 1947, from the State of Maryland into the District of Columbia and the States of Virginia and New York.

LABEL, IN PART: "Becker's Petso Pretzel Straws [or "Becker's Petso Pretzels"] * * * Becker Pretzel Bakeries, Inc.," or "Mutual * * * Pretzel Giant Sticks [or "Prosperity Pretzels"] * * * Mutual Biscuit Co., Inc., New York, N. Y."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a filthy substance by reason of the presence of an adult insect head, larval head capsules, insect fragments, mites, rodent hair fragments, cat hair fragments, and feather fragments; and, Section 402 (a) (4), it had been prepared and packed under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: October 31, 1947. Pleas of guilty having been entered, the defendants were each fined \$75, plus costs.

12624. Adulteration of pretzels. U. S. v. 54 Cases, etc. (and 1 other seizure action). (F. D. C. Nos. 23905, 23961. Sample Nos. 13020-K to 13022-K, incl., 18824-K to 18826-K, incl.)

LIBELS FILED: November 7 and 10, 1947, Southern District of Ohio and Eastern District of Pennsylvania.

ALLEGED SHIPMENT: On or about September 16 and October 6 and 7, 1947, by the American Cone & Pretzel Co., from St. Louis, Mo.

PRODUCT: Pretzels. 54 cases, each containing 24 12-ounce cartons, 684 7-pound cartons, and 16 20-pound cartons, at Philadelphia, Pa., and 67 cases, each containing 24 5-ounce bags, 74 cases, each containing 24 6-ounce bags, and 260 cases, each containing 12 9-ounce bags, at Cincinnati, Ohio.

LABEL, IN PART: (Cartons) "Rold Gold Pretzels," "Tiny Tim Pretzels," "Pretzel Sticks," or "Cocktail Pretzels."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insect fragments and rodent hair fragments; and (Cincinnati lot only), Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: December 12, 1947, and February 16, 1948. Default decrees of condemnation and destruction.

12625. Adulteration of cake rolls. U. S. v. 23 Cartons * * *. (F. D. C. No. 23780. Sample No. 20207-K.)

LIBEL FILED: September 29, 1947, District of Nebraska.

ALLEGED SHIPMENT: On or about August 28, 1947, by the Sisco-Hamilton Co., Chicago, Ill.

PRODUCT: 23 5-pound cartons of cake rolls at Fremont, Nebr.

LABEL, IN PART: "Mrs. Darling Cake Rolls."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of beetles, larvae, and insect parts; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: January 21, 1948. Default decree of condemnation and destruction.

CORN MEAL

12626. Adulteration of corn meal. U. S. v. Davis B. Spiers, Jr. (Chowan Milling Co.). Plea of guilty. Fine, \$250. (F. D. C. No. 23598. Sample Nos. 90652-H, 90653-H.)

INFORMATION FILED: January 6, 1948, Eastern District of Virginia, against Davis B. Spiers, Jr., trading as the Chowan Milling Co.

ALLEGED SHIPMENT: Between the approximate dates of June 17 and 24, 1947, from the State of Virginia into the State of North Carolina.

LABEL, IN PART: "10 Lbs. [or "5 Lbs."] Slow Ground Old Time White Corn Meal."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a filthy substance by reason of the presence of larval insect cast

skin, insect fragments, insect larvae, larval heads, mites, rodent excreta pellet fragments, and rodent hair fragments; and, Section 402 (a) (4), it had been prepared and packed under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: January 19, 1948. A plea of guilty having been entered, the court imposed a fine of \$125 on each of 2 counts.

12627. Adulteration of corn meal. U. S. v. Fayetteville Milling Co. Plea of nolo contendere. Fine, \$300. (F. D. C. No. 21569. Sample No. 53546-H.)

INFORMATION FILED: February 11, 1947, against the Fayetteville Milling Co., a corporation, Fayetteville, Tenn.

ALLEGED SHIPMENT: On or about October 9, 1946, from the State of Tennessee into the State of Alabama.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a filthy substance by reason of the presence of rodent excreta.

DISPOSITION: May 19, 1947. A plea of nolo contendere having been entered on behalf of the defendant, a fine of \$300 and costs was imposed.

12628. Adulteration of corn meal. U. S. v. Model Mill Company, Inc. Plea of nolo contendere. Fine, \$1,000. (F. D. C. No. 24069. Sample Nos. 86775-H to 86778-H, incl., 86780-H.)

INFORMATION FILED: January 23, 1948, Western District of Tennessee, against the Model Mill Co., Inc., Jackson, Tenn.

ALLEGED SHIPMENT: On or about August 11, 14, and 18, 1947, from the State of Tennessee into the State of Mississippi.

LABEL, IN PART: "Home Ground Corn Meal," or "Model Mill's Best Cream Meal."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a filthy substance by reason of the presence of rodent excreta fragments, rodent hairs, rodent hair fragments, insects, insect fragments, and insect excreta pellets; and, Section 402 (a) (4), it had been prepared and packed under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: February 20, 1948. A plea of nolo contendere having been entered, the defendant was fined \$1,000.

12629. Adulteration of corn meal. U. S. v. 1,346 Bags, etc. (F. D. C. No. 23751. Sample Nos. 83185-H, 83186-H.)

LIBEL FILED: September 12, 1947, Western District of Kentucky.

ALLEGED SHIPMENT: On or about August 7 and 25, 1947, by the Cadick Milling Co., from Grand View, Ind.

PRODUCT: Corn meal. 1,346 5-pound bags, 468 10-pound bags, 49 25-pound bags, and 11 100-pound bags at Louisville, Ky.

LABEL, IN PART: "Ballard Cream Corn Meal."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent excreta fragments.

DISPOSITION: January 8, 1948. Ballard & Ballard Co., Louisville, Ky., claimant, having consented to the entry of a decree, judgment of condemnation was entered ordering the product released under bond to be converted into stock feed, under the supervision of the Food and Drug Administration.

12630. Adulteration of corn meal. U. S. v. 158 Bags, etc. (F. D. C. No. 23872. Sample Nos. 18618-K, 18619-K.)

LIBEL FILED: October 27, 1947, Eastern District of Kentucky.

ALLEGED SHIPMENT: On or about October 13, 1947, by J. A. McDonald & Sons, from Rogersville, Tenn.

PRODUCT: Corn meal. 158 25-pound bags and 234 10-pound bags at Middlesboro, Ky.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent excreta fragments.

DISPOSITION: November 25, 1947. J. A. McDonald & Sons having intervened as the claimant, judgment of condemnation was entered and the product was ordered released to be brought into compliance with the law, under the supervision of the Federal Security Agency. The corn meal was denatured and used as animal feed.

12631. Adulteration of corn meal. U. S. v. 90 Bags * * *. (F. D. C. No. 23936. Sample No. 26539-K.)

LIBEL FILED: October 29, 1947, Eastern District of Illinois.

ALLEGED SHIPMENT: On or about October 9, 1947, by the Winn & Tobin Milling Co., from Marion, Ky.

PRODUCT: 90 5-pound bags of corn meal at Carbondale, Ill.

LABEL, IN PART: "Swan High Grade Corn Meal."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent excreta fragments, rodent hair fragments, larvae, and insect fragments.

DISPOSITION: January 14, 1948. Default decree of condemnation. The product was ordered sold, conditioned that the purchaser use the product for poultry or stock feed only, under the supervision of the United States marshal.

12632. Adulteration of corn meal. U. S. v. 30 Bags * * *. (F. D. C. No. 23408. Sample No. 83396-H.)

LIBEL FILED: August 11, 1947, Southern District of Ohio.

ALLEGED SHIPMENT: On or about July 22, 1947, by the Bundy Brothers Mill Co., from Medora, Ind.

PRODUCT: 30 100-pound bags of corn meal at Cincinnati, Ohio.

LABEL, IN PART: "Medora Roller Mills Fancy Fresh Ground Cream Meal."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent excreta fragments, larvae, and insect parts.

DISPOSITION: August 25, 1947. The Bundy Brothers Mill Co., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond for conversion into animal feed, under the supervision of the Food and Drug Administration.

FLOUR

12633. Adulteration of flour. U. S. v. 63 Bags * * *. (F. D. C. No. 23897. Sample No. 18212-K.)

LIBEL FILED: November 7, 1947, District of West Virginia.

ALLEGED SHIPMENT: On or about October 10, 1947, by Studer Brothers, from Apple Creek, Ohio.

PRODUCT: 63 100-pound bags of flour at Wheeling, W. Va.

LABEL, IN PART: "Studer Bros. Apple Creek, Ohio Manufacturers of Fancy Velvet Flour."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insect fragments and rodent hair fragments; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: December 3, 1947. Default decree of condemnation and destruction.

12634. Adulteration of doughnut flour. U. S. v. 1 Barrel * * *. (F. D. C. No. 23639. Sample No. 90363-H.)

LIBEL FILED: August 13, 1947, District of Columbia.

ALLEGED SHIPMENT: On or about July 24, 1947, by the Myers & Hicks Co., from Baltimore, Md.

PRODUCT: 1 barrel, containing 250 pounds, of doughnut flour at Washington, D. C.

LABEL, IN PART: "Kruller-Do A Prepared Cruller or Doughnut Flour."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent hair fragments, insect fragments, and larvae; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: January 13, 1948. Default decree of condemnation and destruction.

12635. Adulteration and misbranding of enriched flour. U. S. v. Hanover Star Milling Co. Plea of guilty. Fine, \$400, plus costs. (F. D. C. No. 23316. Sample Nos. 50061-H, 50068-H.)

INFORMATION FILED: August 6, 1947, Eastern District of Illinois, against the Hanover Star Milling Co., a corporation, Germantown, Ill.

ALLEGED SHIPMENT: On or about September 26 and 27, 1946, from the State of Illinois into the State of Alabama.

LABEL, IN PART: "Enriched * * * Schurmann's Leonora Pastry Flour," or "Magnificent Brand Enriched Flour."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), valuable constituents, vitamin B₁ and iron, had been omitted.

Misbranding, Section 403 (g) (1), the product failed to conform to the definition and standard of identity for enriched flour, since it contained less than 2.0 milligrams of vitamin B₁ and less than 13.0 milligrams of iron in each pound.

DISPOSITION: September 2, 1947. A plea of guilty having been entered, a fine of \$400 was imposed, together with costs.

12636. Adulteration and misbranding of enriched flour. U. S. v. 184 Bags * * *. (F. D. C. No. 24033. Sample No. 7061-K.)

LIBEL FILED: December 26, 1947, Western District of Pennsylvania.

ALLEGED SHIPMENT: On or about November 3, 1947, by the B. A. Eckhart Milling Co., from Chicago, Ill.

PRODUCT: 184 5-pound bags of enriched flour at Johnstown, Pa.

LABEL, IN PART: "Daddy Dollar E Pluribus Unum Enriched Flour."

NATURE OF CHARGE: Adulteration, Section 402 (b) (1), a valuable constituent, thiamine (vitamin B₁), had been in part omitted from the article.

Misbranding, Section 403 (g) (1), the article failed to conform to the definition and standard of identity for enriched flour, since it contained less than 2.0 milligrams of thiamine (vitamin B₁) per pound, the minimum permitted by the definition and standard.

DISPOSITION: January 14, 1948. Default decree of condemnation. The product was ordered delivered to a charitable institution.

12637. Adulteration and misbranding of enriched flour. U. S. v. 90 Bags * * *. (F. D. C. No. 23934. Sample No. 18511-K.)

LIBEL FILED: October 31, 1947, Southern District of Indiana.

ALLEGED SHIPMENT: On or about September 11, 1947, by the United Grain & Milling Co., from St. Henry, Ohio.

PRODUCT: 90 5-pound bags of flour at Richmond, Ind.

LABEL, IN PART: "Burco Flour Enriched with Vitamins and Iron."

NATURE OF CHARGE: Adulteration, Section 402 (b) (1), a valuable constituent, thiamine, had been in part omitted.

Misbranding, Section 403 (g) (1), the product failed to conform to the definition and standard of identity for enriched flour, since it contained less than 2.0 milligrams of thiamine per pound.

DISPOSITION: January 31, 1948. Default decree of forfeiture and destruction.

CONFECTIONERY AND MISCELLANEOUS SACCHARINE PRODUCTS

12638. Adulteration of candy. U. S. v. The Harry E. Davis Company (Davis Candy Company) and Harry E. Davis. Pleas of guilty. Each defendant fined \$125 and costs. (F. D. C. No. 23618. Sample No. 86911-H.)

INFORMATION FILED: November 3, 1947, Northern District of Ohio, against the Harry E. Davis Co., a corporation, trading as the Davis Candy Co., Akron, Ohio, and Harry E. Davis, president.

ALLEGED SHIPMENT: On or about May 8, 1947, from the State of Ohio into the State of Iowa.

LABEL, IN PART: "Flopsy Pops Safest Sucker Sold."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a filthy substance by reason of the presence of rodent hairs; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: December 30, 1947. Pleas of guilty having been entered, the corporation and individual were each fined \$125, plus costs.

12639. Adulteration of candy. U. S. v. United Food Brokers and Earl Cox, Sr. Pleas of guilty. Fine, \$200. (F. D. C. No. 21521. Sample Nos. 172-H, 1276-H, 1278-H to 1280-H, incl., 1925-H.)

INFORMATION FILED: May 13, 1947, Northern District of Georgia, against the United Food Brokers, a corporation, Atlanta, Ga., and Earl Cox, Sr., president of the corporation.

ALLEGED SHIPMENT: On or about May 24 and July 5 and 11, 1946, from the State of Georgia into the States of Florida and South Carolina.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent hair fragments; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: July 23, 1947. Pleas of guilty having been entered, the court imposed a fine of \$200 against the defendants, jointly.

12640. Adulteration of candy. U. S. v. 92 Boxes * * *. (F. D. C. No. 24431. Sample No. 24153-K.)

LIBEL FILED: February 4, 1948, Northern District of Iowa.

ALLEGED SHIPMENT: On or about January 9, 1948, by the Murphy Candy Co., from La Crosse, Wis.

PRODUCT: 92 1-pound boxes of chocolate candy at Osage, Iowa.

LABEL, IN PART: "Murphy's Old Fashioned Chocolates."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insect fragments and rodent hair fragments; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: March 6, 1948. Default decree of condemnation and destruction.

12641. Adulteration of candy. U. S. v. 45 Boxes * * * (and 1 other seizure action). (F. D. C. Nos. 24141, 24396. Sample Nos. 7805-K, 9784-K.)

LIBELS FILED: December 2 and 30, 1947, Southern and Western Districts of New York.

ALLEGED SHIPMENT: On or about November 1 and December 2, 1947, by the Pelle-Rose Confectionery Co., Inc., from Orange, N. J.

PRODUCT: 45 boxes each containing 24 candy sticks at Bronx, N. Y., and 23 cartons, each containing approximately 50 pounds, of candy in individual boxes of various weights at Buffalo, N. Y.

LABEL, IN PART: "Hi-Flavored Candy Sticks * * * Assorted," "Ribbon Candy," "Cinnamon," "Grape," or "Peppermint."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent hair fragments; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: December 23, 1947, and January 27, 1948. Default decrees of condemnation and destruction.

12642. Adulteration of candy. U. S. v. 33 Boxes * * *. (F. D. C. No. 24422. Sample Nos. 30920-K, 30921-K.)

LIBEL FILED: February 21, 1948, Southern District of California.

ALLEGED SHIPMENT: On or about October 28, 1947, by R. L. Albert & Son, Inc., from New York, N. Y.

PRODUCT: 33 boxes each containing 24 chocolate novelties at Los Angeles, Calif.
LABEL, IN PART: "Chocolate Fountain Pen Net Weight 1 Oz. Made in Czechoslovakia for Altray Co., New York."

NATURE OF CHARGE: Adulteration, Section 403 (e) (2), the product failed to bear a label containing an accurate statement of the quantity of the contents. (The product was short-weight.)

DISPOSITION: February 19, 1948. No claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to charitable organizations. On February 26, 1948, the article having become insect-infested, an amended decree was entered ordering it destroyed.

12643. Adulteration of candy bars. U. S. v. 36 Cartons * * *. (F. D. C. No. 23779. Sample No. 26709-K.)

LIBEL FILED: On September 29, 1947, Western District of Arkansas.

ALLEGED SHIPMENT: On or about August 21, 1947, by the Sisco-Hamilton Co., Chicago, Ill.

PRODUCT: 36 cartons each containing 24 1½-ounce candy bars at Texarkana, Ark.

LABEL, IN PART: "Sisco Skookie."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of beetles, larvae, and insect parts; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: February 13, 1948. Default decree of condemnation and destruction.

12644. Adulteration of candy bars. U. S. v. 26 Cartons * * *. (F. D. C. No. 24405. Sample No. 21093-K.)

LIBEL FILED: January 13, 1948, District of Nebraska.

ALLEGED SHIPMENT: On or about December 2, 1947, by the Chase Candy Co., from St. Joseph, Mo.

PRODUCT: 26 cartons, each containing 24 1¼-ounce bars, of candy at Falls City, Nebr.

LABEL, IN PART: "Chase's Brunch Candy."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insects and rodent hairs; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: March 23, 1948. Default decree of condemnation and destruction.

12645. Adulteration of candy. U. S. v. 10 Cartons * * *. (F. D. C. No. 23794. Sample No. 7008-K.)

LIBEL FILED: October 7, 1947, Western District of Pennsylvania.

ALLEGED SHIPMENT: On or about July 25 and 30 and August 12, 1947, by the Lion Specialty Company, from Chicago, Ill.

PRODUCT: 10 cartons, each containing 23 pounds, of candy at Coraopolis, Pa.

LABEL, IN PART: "Peanut Butter Kisses."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of larvae and insect fragments; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: January 5, 1948. Default decree of condemnation and destruction.

12646. Adulteration of candy. U. S. v. 445 Cases, etc. (F. D. C. No. 23017. Sample Nos. 71139-H, 71324-H.)

LIBEL FILED: May 7, 1947, Southern District of California.

ALLEGED SHIPMENT: On or about March 28, 1947, by Surplus Sales Stores of Honolulu, Ltd., from Honolulu, Hawaii.

PRODUCT: 445 cases each containing 20 cartons containing 24 2-ounce candy bars and 1,978 cases each containing 12 packages containing 12 4-ounce candy bars at Wilmington, Calif.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of beetles, larvae, and insect excreta.

DISPOSITION: September 25, 1947. Surplus Sales Stores of Honolulu, Ltd., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond to be disposed of as hog feed, or for purposes other than human consumption, under the supervision of the Food and Drug Administration.

12647. Misbranding of candy. U. S. v. 28 Cartons * * *. (F. D. C. No. 24298. Sample No. 8239-K.)

LIBEL FILED: January 6, 1948, District of New Jersey.

ALLEGED SHIPMENT: On or about November 3, 1947, by the Phoenix Candy Co., from Brooklyn, N. Y.

PRODUCT: 28 cartons, each containing 24 packages, of candy at East Orange, N. J.

LABEL, IN PART: (Package) "Net Weight One Pound Phoenix Rum & Butter Toffee * * * Ingredients: Sugar, Corn Syrup, Condensed Milk, vegetable shortening, soya bean flour, artificial flavor."

NATURE OF CHARGE: Misbranding, Section 403 (a), the label statement "Rum & Butter" was false and misleading as applied to the article, which contained artificial rum flavoring and little or no butter; and, Section 403 (e) (2), the article failed to bear a label containing an accurate statement of the quantity of the contents. (The article was short-weight.)

DISPOSITION: March 22, 1948. Default decree of condemnation. The product was ordered delivered to charitable organizations.

12648. Misbranding of chocolate Easter eggs. U. S. v. 66 Cartons * * *. (F. D. C. No. 24344. Sample No. 8074-K.)

LIBEL FILED: February 13, 1948, District of Connecticut.

ALLEGED SHIPMENT: On or about January 13, 1948, by the Karloff Confectionery Co., from Philadelphia, Pa.

PRODUCT: 66 cartons each containing 1 chocolate-covered Easter egg at Bridgeport, Conn.

LABEL, IN PART: "Easter Greetings."

NATURE OF CHARGE: Misbranding, Section 403 (e) (1) and (2), the product failed to bear a label containing the name and place of business of the manufacturer, packer, or distributor, and an accurate statement of the quantity of the contents; Section 403 (i) (1), the label failed to bear the common or usual name of the food; and, Section 403 (i) (2), the product was fabricated from two or more ingredients, and its label failed to bear the common or usual name of each ingredient.

DISPOSITION: March 12, 1948. Default decree of condemnation. The product was ordered delivered to charitable institutions.

12649. Misbranding of chocolate bars. U. S. v. 240 Cases * * *. (F. D. C. No. 20419. Sample No. 15839-H.)

LIBEL FILED: August 2, 1946, Eastern District of Michigan.

ALLEGED SHIPMENT: On or about June 6, 1946, by the Cook Chocolate Co., from Chicago, Ill.

PRODUCT: 240 cases each containing 12 boxes of 24 chocolate bars at Detroit, Mich.

LABEL, IN PART: "Sweet Chocolate Vita Sert Vitamin Bar," or "Sweet Chocolate Candy Vita Sert Sweet Chocolate."

NATURE OF CHARGE: Misbranding, Section 403 (g) (1), the article failed to conform to the definition and standard of identity for sweet chocolate, in that it contained added vitamins A, B₁, C, D, niacinamide, and riboflavin, which vitamins are not permitted as ingredients of sweet chocolate in the definition and standard.

DISPOSITION: November 15, 1946. The Cook Chocolate Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond to be brought into compliance with the law, under the supervision of the Federal Security Agency.

12650. Misbranding of Kevo Enurgets (candy). U. S. v. 2 Cases * * *. (F. D. C. No. 23539. Sample Nos. 69068-H, 69069-H.)

LIBEL FILED: August 15, 1947, Northern District of Illinois.

ALLEGED SHIPMENT: On or about May 15, 1947, by the W-H-Y and Kevo Products Co., Ltd.

PRODUCT: 2 cases and 42 cans of Kevo Enurgets at Chicago, Ill.

LABEL, IN PART: "Bartlett's Kevo Enurgets * * * Net Weight 14 [or "3"] Oz."

NATURE OF CHARGE: Misbranding, Section 403 (a), the following statements on the label were false and misleading, since they suggested benefits which could not be derived from the article: (14-ounce size) "Enurgets * * * Puts Pep in Your Step * * * For Quick Building of Energy That Lasts * * * for maximum nutrition and energy building * * * for * * * all who must stay alert mentally and physically * * * give a quick pick-up and lasting energy * * * take away that tired feeling * * * aid digestion * * * ease away nervous headache * * * put pep in your step"; (3-ounce size) "Enurgets * * * Puts Pep in Your Step * * * for maximum nutrition Quick lasting energy for people on the go * * * for a quick pick-up and lasting energy for work or play * * * For Quickly building energy that Lasts." The following label statements were misleading, since the principle ingredient of the product was sucrose: (14-ounce size) "Dehydrated, Powered Whole Soy Bean; Germ of Whole Wheat; Dextrose; Barley Malt; Soy Milk; Deep Sea Kelp; Mint Leaves; Carrot; Celery; Calcium Carbonate; Iron; Phosphorus; Iodine; Special Blended Flavoring"; (3 ounce size) "Dehydrated, Powdered Whole Soy Bean; Germ of Whole Wheat; Dextrose; Skim Milk; Barley Malt; Deep Sea Kelp; Mint Leaves; Rhubarb Plant; Spinach; Carrot; Celery."

Further misbranding, Section 403 (i) (2), the label failed to bear the common or usual name of each ingredient, since sucrose was not declared. Section 403 (j), the product purported to be and was represented as a food for special dietary uses by reason of the reference on the label to the presence of calcium, iron, phosphorus, and iodine, and by reason of the statement "Natural * * * Vitamins, Minerals"; and its label failed to bear the information concerning its vitamin and mineral properties as has been determined to be, and by regulation prescribed as, necessary in order fully to inform purchasers as to its value for such special dietary uses, since its label failed to bear a statement of the kind and quantities of vitamins and the quantities of minerals supplied by the article when consumed in a specified quantity during a period of one day. Section 403 (e) (2), (3-ounce size) the article failed to bear a label containing an accurate statement of the quantity of the contents. (The packages contained less than the amount declared.)

DISPOSITION: October 29, 1947. Default decree of condemnation and destruction.

12651. Adulteration of fudge mix. U. S. v. 145 Packages * * *. (F. D. C. No. 23388. Sample No. 54431-H.)

LIBEL FILED: August 1, 1947, Middle District of Georgia.

ALLEGED SHIPMENT: On or about June 2, 1947, by the Orange State Products Corporation, from Coral Gables, Fla.

PRODUCT: 145 10-ounce packages of fudge mix at Nashville, Ga.

LABEL, IN PART: "OSP Fudge Mix With Coconut Chocolate Flavor Just Add Water."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of larvae, insect fragments, and rodent hair fragments.

DISPOSITION: September 9, 1947. Default decree of condemnation and destruction.

12652. Adulteration and misbranding of dextrose. U. S. v. 160 Cases * * * (and 1 other seizure action). (F. D. C. Nos. 21702, 21738. Sample Nos. 49644-H, 49649-H.)

LIBELS FILED: November 14 and 25, 1946, Western District of Louisiana.

ALLEGED SHIPMENT: On or about October 14, 1946, by T. J. Blackburn, from Jefferson, Tex.

PRODUCT: Dextrose. 160 cases at Shreveport and 55 cases at Bernice, La. Each case contained 6 cans of dextrose sirup.

LABEL, IN PART: "Pure Dextrose Ready to Use Quad * * * Contains: Pure Dextrose and Water Quad Foods, Inc. Texarkana U. S. A."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), corn sirup had been substituted for pure dextrose.

Misbranding, Section 403 (a), the label statements "Pure Dextrose Ready to Use" and "Contains: Pure Dextrose and Water" were false and misleading.

DISPOSITION: February 15 and 17, 1947. Quad Foods, Inc., having intervened as claimant, judgments of condemnation were entered and the product was ordered released under bond, conditioned that it be brought into compliance with the law, under the supervision of the Federal Security Agency.

12653. Adulteration of sorghum grain sirup. U. S. v. 69 Drums * * *. (F. D. C. No. 22441. Sample Nos. 52261-H, 73363-H.)

LIBEL FILED: January 27, 1947, Western District of Wisconsin.

ALLEGED SHIPMENT: On or about December 7, 1946, by the Grain Derivatives Corporation, from Louisville, Ky.

PRODUCT: 69 715-pound drums of sorghum grain sirup at Roberts, Wis.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insect fragments, rust, scale, soot, charcoal, and nondescript dirt.

DISPOSITION: March 18, 1947. The Grain Derivatives Corporation, claimant, having admitted the facts in the libel, judgment of condemnation, was entered and the product was ordered released under bond, conditioned that it be converted for use as an adhesive, under the supervision of the Food and Drug Administration.

12654. Misbranding of honey. U. S. v. F. C. Belt & Son. Plea of guilty. Fine, \$15. (F. D. C. No. 23564. Sample Nos. 86494-H, 91599-H, 91600-H.)

INFORMATION FILED: September 15, 1947, District of Colorado, against F. C. Belt & Son, a partnership, La Jara, Colo.

ALLEGED SHIPMENT: On or about November 11, 1946, from the State of Colorado into the State of Texas.

LABEL, IN PART: "Belt's Pure Honey."

NATURE OF CHARGE: Misbranding, Section 403 (e) (2), the article failed to bear a label containing an accurate statement of the quantity of the contents. The label statements "Net Weight 24 Ozs." and "Net Weight 12 Ozs." were inaccurate, since the containers of the article contained less than 24 ounces and 12 ounces, respectively.

DISPOSITION: September 30, 1947. A plea of guilty having been entered, the court imposed a fine of \$5 on each of the 3 counts of the information.

12655. Misbranding of honey. U. S. v. 39 Cases, etc. (F. D. C. No. 23060. Sample Nos. 91599-H, 91600-H.)

LIBEL FILED: June 1, 1947, Northern District of Texas.

ALLEGED SHIPMENT: On or about November 11, 1946, by F. C. Belt & Son, La Jara, Colo.

PRODUCT: 39 cases, each containing 24 jars, and 3 cases, each containing 24 jars, of honey at Amarillo, Tex.

LABEL, IN PART: "Belt's Pure Honey Net Weight 12 Ozs. [or "24 Ozs."]."

NATURE OF CHARGE: Misbranding, Section 403 (e) (2), the product failed to bear a label containing an accurate statement of the quantity of the contents. (The product was short of the declared weight.)

DISPOSITION: August 20, 1947. F. C. Belt & Son, claimant, having admitted the facts in the libel, judgment of forfeiture was entered and the product was ordered released under bond to be brought into compliance with the law, under the supervision of the Food and Drug Administration.

DAIRY PRODUCTS

BUTTER

The following cases report actions involving butter that consisted in whole or in part of filthy or decomposed substances, Nos. 12656 to 12660; and that was below the standard for milk fat content, Nos. 12661 and 12662.

12656. Adulteration of butter. U. S. v. Kellogg Cooperative Creamery Association. Plea of guilty. Fine, \$150. (F. D. C. No. 23297. Sample No. 77288-H.)

INFORMATION FILED: August 1, 1947, District of Minnesota, against the Kellogg Cooperative Creamery Association, Kellogg, Minn.

ALLEGED SHIPMENT: On or about April 9, 1947, from the State of Minnesota into the State of Iowa.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a filthy substance by reason of the presence of rodent hairs.

DISPOSITION: November 7, 1947. A plea of guilty having been entered on behalf of the defendant, a fine of \$150 was imposed.

12657. Adulteration of butter. U. S. v. 21 Cubes (1,428 pounds) * * *. (F. D. C. No. 23675. Sample No. 30405-H.)

LIBEL FILED: August 12, 1947, District of Colorado.

ALLEGED SHIPMENT: On or about July 22, 1947, by the Yellowstone Dairy, from Douglas, Wyo.

PRODUCT: 21 68-pound cubes of butter at Englewood, Colo.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy or decomposed animal substance (examination of a sample disclosed the presence of an insect, insect parts, and a hair resembling a rodent hair); and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.)

DISPOSITION: September 3, 1947. Consent decree of condemnation. The product was ordered sold to a rendering company, to be used in the manufacture of soap grease.

12658. Adulteration of butter. U. S. v. 275 Cubes (16,500 pounds) * * *. (F. D. C. No. 21054. Sample No. 43116-H.)

LIBEL FILED: August 22, 1946, District of Maryland.

ALLEGED SHIPMENT: On or about August 8, 1946, by South Mountain Dairies, Inc., from New York, N. Y.

PRODUCT: 275 60-pound cubes of butter at Baltimore, Md.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy or decomposed animal substance. (The product contained rodent hair fragments, insects, insect fragments, and mold.)

DISPOSITION: February 17, 1947. The South Mountain Dairies, Inc., claimant, having admitted the allegations of the libel, and having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond to be processed into soap, under the supervision of the Food and Drug Administration.

12659. Adulteration of butter. U. S. v. 26 Cases * * *. (F. D. C. No. 24149. Sample No. 19037-K.)

LIBEL FILED: On or about October 9, 1947, Southern District of West Virginia.

ALLEGED SHIPMENT: On or about September 15, 1947, by Swift & Co., from Lexington, Ky.

PRODUCT: 26 cases, each containing 32 1-pound cartons of 4 1/4-pound packages, of butter at Huntington, W. Va.

LABEL, IN PART: "4 Oz. Net Weight Swift Brookfield Butter."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product was decomposed, since it contained excessive mold mycelia, showing the use of decomposed cream.

DISPOSITION: February 28, 1948. Default decree of condemnation. The product was ordered denatured and sold for use as salvage fats.

12660. Adulteration of butter. U. S. v. 15 Boxes, etc. (497 pounds, total). (F. D. C. No. 23929. Sample Nos. 19039-K, 19040-K.)

LIBEL FILED: October 1, 1947, Eastern District of Kentucky.

ALLEGED SHIPMENT: On or about September 17 and 22, 1947, by the Beatrice Creamery Co., from Cincinnati, Ohio.

PRODUCT: 15 31-pound boxes and 1 32-pound box of butter at Harlan, Ky.

LABEL, IN PART: "Meadow Gold Butter."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy or decomposed substance since the butter was made from decomposed cream, as evidenced by a high mold mycelia count.

DISPOSITION: November 1, 1947. The Beatrice Foods Co. having appeared as claimant, judgment of condemnation was entered and the product was ordered released under bond to be brought into compliance with the law, under the supervision of the Food and Drug Administration. The butter was converted into butter oil.

12661. Adulteration of butter. U. S. v. Merchants Creamery Co., Inc. (Linwood Dairy & Creamery). Plea of guilty. Fine, \$50 and costs. (F. D. C. No. 23597. Sample Nos. 83402-H, 83411-H.)

INFORMATION FILED: December 6, 1947, District of Kansas, against the Merchants Creamery Co., Inc., trading as Linwood Dairy & Creamery, at Wichita, Kans.

ALLEGED SHIPMENT: On or about May 28, 1947, from the State of Kansas into the State of Ohio.

NATURE OF CHARGE: Adulteration, Section 402 (b) (1), a valuable constituent, milk fat, had been in part omitted; and, Section 402 (b) (2), a product containing less than 80 percent of milk fat had been substituted for butter.

DISPOSITION: February 4, 1948. A plea of guilty having been entered on behalf of the defendant, a fine of \$50 was imposed, together with costs.

12662. Adulteration of butter. U. S. v. 15 Cartons (480 pounds) * * *. (F. D. C. No. 24146. Sample No. 12002-K.)

LIBEL FILED: October 10, 1947, Middle District of Pennsylvania.

ALLEGED SHIPMENT: On or about September 16, 1947, by Wilson & Co., Inc., from Oklahoma City, Okla.

PRODUCT: 15 cartons, each containing 32 1-pound prints, of butter at Harrisburg, Pa.

LABEL, IN PART: "Clear Brook Creamery Butter."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

DISPOSITION: November 8, 1947. No claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to a charitable institution.

CHEESE

12663. Adulteration of American cheese. U. S. v. Sanitary Dairy Products Co., George T. Conati, and Frank M. Conati. Pleas of guilty. Total fines, \$2,000. Individual defendants placed on 2 years' probation. (F. D. C. No. 23313. Sample Nos. 63014-H, 63016-H, 68009-H, 68010-H.)

INFORMATION FILED: August 7, 1947, District of Minnesota, against the Sanitary Dairy Products Co., a partnership, Crookston, Minn., and George T. Conati and Frank M. Conati, partners.

ALLEGED SHIPMENT: On or about November 4 and December 14, 1946, from the State of Minnesota into the States of Nebraska and California.

LABEL, IN PART: (Portion) "Longhorns Armour's Cloverbloom."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a filthy substance by reason of the presence of insect fragments, rodent hair fragments, feather fragments, and a mite; and (portion), Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: January 7, 1948. Pleas of guilty having been entered, the partnership was fined \$500 and each individual was fined \$750. The defendants were placed on 2 years' probation.

12664. Adulteration of cheese. U. S. v. 145 Cartons * * *. (F. D. C. No. 23387. Sample No. 77459-H.)

LIBEL FILED: July 29, 1947, District of North Dakota.

ALLEGED SHIPMENT: On or about July 15, 1947, by the National Tea Co., from Minneapolis, Minn.

PRODUCT: 145 cartons, each containing 12 1-pound packages, of cheese at Grand Forks, N. Dak.

LABEL, IN PART: "Bridgeman Aristocrat Old and Sharp Natural Cheddar Cheese, Bridgeman Creameries, Inc., Grand Forks, N. D."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of mold.

DISPOSITION: August 28, 1947. The Bridgeman Creameries, Inc., having admitted the adulteration of the product, and having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered destroyed.

12665. Adulteration of cheese. U. S. v. 16 Crates * * *. (F. D. C. No. 21648. Sample No. 64567-H.)

LIBEL FILED: November 19, 1946, Southern District of New York.

ALLEGED SHIPMENT: On or about September 17, 1946, by the Dionisio Grocery and Market, from Trinidad, Colo.

PRODUCT: 16 crates containing a total of 66 cheeses at New York, N. Y.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of maggots.

DISPOSITION: January 13, 1948. Default decree of condemnation. The product was ordered delivered to a Federal institution, for use as animal feed.

12666. Adulteration of cheese. U. S. v. 5 Boxes * * *. (F. D. C. No. 12422. Sample No. 78407-F.)

LIBEL FILED: On or about May 31, 1944, Northern District of Illinois.

ALLEGED SHIPMENT: On or about November 10, 1943, by the Greco Roman Cheese Co., Stoughton, Wis.

PRODUCT: 5 boxes each containing 8 cheeses (approximately 125 pounds per box) at Chicago, Ill.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of larvae.

DISPOSITION: June 14, 1944. The Greco Roman Cheese Co., claimant, having admitted the facts of the libel, judgment of condemnation was entered and the product was ordered released under bond to be brought into compliance with the law, under the supervision of the Food and Drug Administration.

12667. Adulteration of Cheddar cheese. U. S. v. 1,804 Cartons * * *. (F. D. C. No. 23082. Sample Nos. 15546-H, 39266-H.)

LIBEL FILED: July 2, 1947, Northern District of Illinois.

ALLEGED SHIPMENT: On or about May 14, 1947, by The Waverly Creamery Association, from Waverly, Minn.

PRODUCT: 1,804 cartons (42,265¾ pounds) of Cheddar cheese at Chicago, Ill.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent hairs and manure fragments and by reason of the use of filthy milk in its preparation; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: January 20, 1948. Harold N. Simpson Co., Oak Park, Ill., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond to be denatured for use as stock feed, under the supervision of the Food and Drug Administration.

12668. Adulteration of Cheddar cheese. U. S. v. 113 Cartons * * *. (F. D. C. No. 23421. Sample No. 82990-H.)

LIBEL FILED: August 19, 1947, Western District of Washington.

ALLEGED SHIPMENT: On or about June 27, 1947, by Consolidated Dairies of Lake County, from Ronan, Mont.

PRODUCT: 113 24-pound cartons of Cheddar cheese at Seattle, Wash.

LABEL, IN PART: "Darigold Cheddar Cheese."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insect fragments, rodent hair, and manure fragments, and by reason of the use of filthy milk in its preparation; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: November 28, 1947. Default decree of condemnation and destruction.

12669. Adulteration of Cheddar cheese. U. S. v. 125 Boxes * * *. (F. D. C. No. 23954. Sample No. 26840-K.)

LIBEL FILED: November 6, 1947, Western District of Tennessee.

ALLEGED SHIPMENT: On or about September 18, 1947, by the Coldwater Dairy Products Co., from Coldwater, Miss.

PRODUCT: 125 boxes, each containing approximately 22 pounds, of Cheddar cheese at Memphis, Tenn.

LABEL, IN PART: "Coldwater Cheddar Cheese Daisies Mississippi."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of manure fragments and by reason of the use of filthy milk in its preparation.

DISPOSITION: January 23, 1948. No claimant having appeared, judgment of condemnation was entered and the product was ordered sold, conditioned that it be denatured by the purchaser, under the supervision of the Federal Security Administrator, so that it could not be disposed of for human consumption.

12670. Adulteration and misbranding of washed curd cheese. U. S. v. 53 Cheeses (and 1 other seizure action). (F. D. C. Nos. 23453, 23502. Sample Nos. 74025-H, 74896-H.)

LIBELS FILED: June 27 and July 16, 1947, Districts of New Hampshire and Connecticut.

ALLEGED SHIPMENT: On or about April 11 and 14, 1947, by the Cabot Farmers Cooperative Creamery Co., Inc., from Cabot, Vt.

PRODUCT: 53 32-pound cheeses at Woodsville, N. H., and 39 cases each containing 2 5-pound cheeses and 17 cases each containing 3 3-pound cheeses at New London, Conn.

LABEL, IN PART: "American Washed Curd Cheese."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), a product deficient in milk fat had been substituted in whole or in part for washed curd cheese.

Misbranding, Section 403 (g) (1), the article failed to conform to the definition and standard of identity for washed curd cheese, since the article contained in its solids less than 50 percent of milk fat, the minimum permitted by the definition and standard.

DISPOSITION: July 30, 1947, and January 16, 1948. The Cabot Farmers Cooperative Creamery Co., Inc., claimant, having consented to the entry of decrees, judgments of condemnation were entered. The product was ordered released under bond for relabeling, under the supervision of the Federal Security Agency.

12671. Adulteration of grated cheese. U. S. v. 180 Cartons * * *. (F. D. C. No. 21801. Sample No. 61941-H, 61942-H.)

LIBEL FILED: December 5, 1946, District of Oregon.

ALLEGED SHIPMENT: On or about August 17, 1946, from Los Angeles, Calif.

PRODUCT: 180 cartons of cheese at Eugene, Oreg. Some of the cartons contained 18 4-ounce packages and some contained 36 1¼-ounce packages.

LABEL, IN PART: "Taylor Maid Grated Mixed Cheese Manufactured by El Rey Cheese Co. Los Angeles, Calif."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insect fragments, rodent hair fragments, and manure; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: February 4, 1947. Default decree of condemnation and destruction.

12672. Adulteration of grated cheese. U. S. v. 7 Cases * * *. (F. D. C. No. 24013. Sample No. 6023-K.)

LIBEL FILED: December 11, 1947, Western District of Pennsylvania.

ALLEGED SHIPMENT: On or about August 13, 1947, by Charles Chesman, from New York, N. Y.

PRODUCT: 7 cases, each containing 25 1-pound cartons, of grated cheese at Pittsburgh, Pa.

LABEL, IN PART: Edelweiss * * * Grated South American and Domestic Cheeses John Sexton & Co., Chicago, Ill."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of mites.

DISPOSITION: January 14, 1948. Default decree of condemnation and destruction.

12673. Misbranding of cheese in wine or brandy. U. S. v. 50 Cases * * *. (F. D. C. No. 24190. Sample No. 4007-K.)

LIBEL FILED: December 18, 1947, District of Massachusetts.

ALLEGED SHIPMENT: On or about November 26, 1947, by the Dutchess Food Specialties Co., from New York, N. Y.

PRODUCT: 50 cases, each containing 12 sets of 3 individually colored crocks, of cheese in wine or brandy at Boston, Mass.

LABEL, IN PART: "Roquefort-Type Cheese in Brandy [or "Cheddar Cheese in Port Wine," or "Stilton Cheese in Port Wine"] * * * Net Wt.—5 Ozs. Packed for S. S. Pierce Co., Boston, Mass."

NATURE OF CHARGE: Misbranding, Section 403 (e) (2), the product failed to bear a label containing an accurate statement of the quantity of the contents. (The crocks contained less than the declared weight of 5 ounces.)

DISPOSITION: January 23, 1948. The Dutchess Food Specialties Co., New York, N. Y., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond to be relabeled, under the supervision of the Food and Drug Administration.

CREAM

12674. Adulteration of cream. U. S. v. John Rupp. Plea of guilty. Fine, \$50 and costs. (F. D. C. No. 23599. Sample No. 89225-H.)

INFORMATION FILED: December 4, 1947, District of Kansas, against John Rupp, Ellis, Kans.

ALLEGED SHIPMENT: On or about June 7, 1947, from the State of Kansas into the State of Colorado.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a filthy substance by reason of the presence of a dead mouse and numerous rodent hairs.

DISPOSITION: January 26, 1948. Plea of guilty; fine, \$50, plus costs.

12675. Adulteration of cream. U. S. v. 2 Cans * * * (and 8 other seizure actions). (F. D. C. Nos. 23913 to 23920, incl. Sample Nos. 28001-K, 28010-K, 28011-K, 28014-K, 28016-K, 28017-K, 28602-K, 28604-K, 28608-K.)

LIBELS FILED: September 12, 17, and 25, 1947, District of Colorado.

ALLEGED SHIPMENT: Between the approximate dates of September 4 and 21, 1947, by Leon's Produce, Colby, Kans.; April Produce, Sidney, Nebr.; Bowker Produce Station, Big Springs, Nebr.; Alta Bullock, Grant, Nebr.; Beatrice Creamery Co., Benkelman, Nebr.; Oelke Produce Co., Hoxie, Kans.; Clyde Adams, St. Francis, Kans.; and Cecil Johnson, Bridgeport, Nebr.

PRODUCT: 14 10-gallon cans of cream at Denver, Colo.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of moths, insect parts, cow hair, feather barbules, carbon, threads, vegetable fibers, metal fragments, whole insects, hair resembling cat hair and rodent hair, lacquer particles, plant tissues, ants, rust, and nondescript dirt.

DISPOSITION: September 12, 17, and 25, 1947. The consignees having consented to the entry of decrees, judgments were entered ordering the immediate destruction of the product.

12676. Adulteration of cream. U. S. v. 1 Can * * *. (F. D. C. No. 21287. Sample No. 59782-H.)

LIBEL FILED: September 17, 1946, Western District of Pennsylvania.

ALLEGED SHIPMENT: On or about September 12, 1946, by Edgar O. Johnson, from Monterey, Va.

PRODUCT: 1 10-gallon can of cream at Pittsburgh, Pa.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy, putrid, or decomposed substance.

DISPOSITION: September 17, 1946. The consignee having consented, an order for the immediate destruction of the product was issued.

EGGS

12677. Adulteration of dried whole eggs. U. S. v. 39 Barrels * * *. (F. D. C. No. 23980. Sample No. 14438-K.)

LIBEL FILED: November 25, 1947, Northern District of Illinois.

ALLEGED SHIPMENT: On or about October 9, 1947, by Rothenburg & Schneider Bros., from New York, N. Y.

PRODUCT: 39 100-pound barrels of dried whole eggs at Chicago, Ill. Examination showed that the product was contaminated with feather fragments, wood fibers, and brush bristles.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance and was otherwise unfit for food.

DISPOSITION: December 16, 1947. Rothenburg & Schneider Bros. Co., Chicago, Ill., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond for the purpose of segregating the good eggs from the bad and converting the bad eggs into stock feed by denaturing, under the supervision of the Federal Security Agency.

12678. Adulteration of frozen whole eggs. U. S. v. 60 Cans, etc. (F. D. C. No. 23956. Sample Nos. 14441-K to 14443-K, incl.)

LIBEL FILED: November 13, 1947, Northern District of Illinois.

ALLEGED SHIPMENT: On or about April 2, May 5, and July 26, 1947, by the Fairmont Creamery Co., from Omaha, Nebr.

PRODUCT: 229 30-pound cans of frozen whole eggs at Chicago, Ill.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance.

DISPOSITION: December 15, 1947. Irving Horwitz, Chicago, Ill., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond for the purpose of segregating the good eggs from the bad, under the supervision of the Federal Security Agency. On December 17, 1947, an amended decree was entered ordering that the bad eggs be denatured or destroyed.

12679. Adulteration of frozen whole eggs. U. S. v. 183 Cans * * *. (F. D. C. No. 23955. Sample No. 14440-K.)

LIBEL FILED: November 12, 1947, Northern District of Illinois.

ALLEGED SHIPMENT: On or about May 13, 1947, by the McKinley Produce Co., from Greensburg, Ind.

PRODUCT: 183 30-pound cans of frozen whole eggs at Chicago, Ill.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance.

DISPOSITION: December 19, 1947. Sol Rich & Co., Chicago, Ill., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond for the segregation and the destruction of the unfit eggs, under the supervision of the Federal Security Agency.

12680. Adulteration of frozen whole eggs. U. S. v. 109 Cans * * *. (F. D. C. No. 24407. Sample Nos. 36146-K, 36147-K.)

LIBEL FILED: January 9, 1948, Eastern District of Washington.

ALLEGED SHIPMENT: On or about November 17, 1946, by the Fergus County Creamery, Inc., from Lewistown, Mont.

PRODUCT: 109 30-pound cans of frozen whole eggs at Spokane, Wash.

LABEL, IN PART: "Armour's Cloverbloom Frozen Whole Eggs."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

DISPOSITION: February 16, 1948. The Fergus County Creamery, Inc., Lewistown, Mont., and Armour & Co., Portland, Oreg., claimants, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond for the segregation of the fit portion from the unfit, under the supervision of the Food and Drug Administration. Thirty-one cans were rejected and denatured with kerosene.

12681. Adulteration of frozen whole eggs. U. S. v. 78 Cans * * *. (F. D. C. No. 23984. Sample No. 37208-K.)

LIBEL FILED: November 26, 1947, Western District of Washington.

ALLEGED SHIPMENT: On or about August 13, 1947, by the Omaha Cold Storage Co., Omaha, Nebr.

PRODUCT: 78 30-pound cans of frozen whole eggs at Seattle, Wash.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance.

DISPOSITION: December 16, 1947. The Omaha Cold Storage Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond for the purpose of segregating and sorting the good eggs from the bad, under the supervision of the Federal Security Agency.

12682. Adulteration of frozen whole eggs. U. S. v. 64 Cans * * *. (F. D. C. No. 23945. Sample No. 14439-K.)

LIBEL FILED: November 5, 1947, Northern District of Illinois.

ALLEGED SHIPMENT: On or about October 2, 1947, by the Oskaloosa Produce Co., from Oskaloosa, Iowa.

PRODUCT: 64 30-pound cans of frozen whole eggs at Chicago, Ill.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance.

DISPOSITION: January 15, 1948. Default decree of condemnation. The product was ordered destroyed, with the exception of 5 cans which were ordered released to the Food and Drug Administration.

12683. Adulteration of frozen whole eggs. U. S. v. 12 cans * * *. (F. D. C. No. 23427. Sample No. 86856-H.)

LIBEL FILED: August 26, 1947, District of Minnesota.

ALLEGED SHIPMENT: On or about August 13, 1947, by the Landsberger Creamery & Produce Co., from Sisseton, S. Dak.

PRODUCT: 12 30-pound cans of frozen whole eggs at St. Paul, Minn.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance.

DISPOSITION: December 27, 1947. A default decree was entered, ordering the destruction of the product in the event that it should not be processed and disposed of as animal feed under the supervision of the Food and Drug Administration.

FEEDS AND GRAINS

12684. Misbranding of alfalfa meal. U. S. v. AAA Alfalfa Milling Co. Plea of nolo contendere. Fine, \$100. (F. D. C. No. 23579. Sample No. 72245-H.)

INFORMATION FILED: October 6, 1947, District of New Mexico, against the AAA Alfalfa Milling Co., a partnership, Roswell, N. Mex.

ALLEGED SHIPMENT: On or about July 18, 1946, from the State of New Mexico into the State of Kansas.

LABEL, IN PART: "17% Dehydrated Alfalfa Meal * * * Guaranteed Analysis * * * Fiber, not more than 27% * * * 100 Lbs. Net."

NATURE OF CHARGE: Misbranding, Section 403 (a), the label statement "Fiber, not more than 27%" was false and misleading, since the article contained more than 27 percent of fiber; and, Section 403 (e) (2), the article failed to bear a label containing an accurate statement of the quantity of the contents. (The bags were short-weight.)

DISPOSITION: October 27, 1947. A plea of nolo contendere having been entered, the defendant was fined \$100.

12685. Misbranding of cottonseed meal. U. S. v. Chickasha Cotton Oil Co. (Altus Cotton Oil Mill). Plea of nolo contendere. Fine, \$100. (F. D. C. No. 23613. Sample No. 33293-H.)

INFORMATION FILED: November 3, 1947, Western District of Oklahoma, against the Chickasha Cotton Oil Co., a corporation, trading as the Altus Cotton Oil Mill, at Altus, Okla.

ALLEGED SHIPMENT: On or about March 5, 1947, from the State of Oklahoma into the State of Texas.

LABEL, IN PART: "Chickasha Quality Brand 43% Protein Cottonseed Meal * * * Guaranteed Analysis * * * Crude Protein not less than 43.00 Per Cent."

NATURE OF CHARGE: Misbranding, Section 403 (a), the label statement "Guaranteed Analysis * * * Crude Protein not less than 43.00 Per Cent" was false and misleading, since the product contained less than 43 percent of crude protein.

DISPOSITION: January 7, 1948. A plea of nolo contendere having been entered on behalf of the defendant, a fine of \$100 was imposed.

12686. Misbranding of cottonseed cake and meal. U. S. v. The Southern Cotton Oil Company. Plea of nolo contendere. Fine, \$25. (F. D. C. No. 23596. Sample No. 86135-H.)

INFORMATION FILED: October 15, 1947, Eastern District of Arkansas, against The Southern Cotton Oil Co., Little Rock, Ark.

ALLEGED SHIPMENT: On or about April 14, 1947, from the State of Arkansas into the State of Kansas.

LABEL, IN PART: "Navy Brand * * * Manufactured for Louis Tobian & Company, Dallas, Texas Guaranteed Analysis Crude Protein, not less than 41.00%."

NATURE OF CHARGE: Misbranding, Section 403 (a), the label statement "Crude Protein, not less than 41.00%" was false and misleading, since the product contained less than 41 percent of crude protein.

DISPOSITION: November 4, 1947. A plea of nolo contendere having been entered, the defendant was fined \$25 and ordered to make restitution for the percentage of protein deficiency.

12687. Misbranding of peanut meal. U. S. v. Stevens Industries, Inc. (Dawson Cotton Oil Company). Plea of nolo contendere. Fine, \$200. (F. D. C. No. 23330. Sample No. 72345-H.)

INFORMATION FILED: August 15, 1947, Middle District of Georgia, against Stevens Industries, Inc., trading as the Dawson Cotton Oil Company, Dawson, Ga.

ALLEGED SHIPMENT: On or about April 2, 1947, from the State of Georgia into the State of Maryland.

LABEL, IN PART: "Georgia Brand 41% Protein Peanut Meal * * * Manufactured for The Boswell Company Atlanta, Ga. Guaranteed Analysis Crude Protein, not less than . . . 41.00% * * * Crude Fibre, not more than . . . 16.00%."

NATURE OF CHARGE: Misbranding, Section 403 (a), the label statements were false and misleading, since the product contained less than 41 percent of protein and more than 16 percent of fiber.

DISPOSITION: November 12, 1947. A plea of nolo contendere having been entered, the defendant was fined \$200.

FISH AND SHELLFISH

12688. Adulteration of frozen rosefish fillets. U. S. v. 1,913 Boxes * * *.
(F. D. C. No. 23382. Sample Nos. 15561-H, 15565-H.)

LIBEL FILED: August 4, 1947, Northern District of Illinois.

ALLEGED SHIPMENT: On or about July 11, 1947, by the Rocky Bay Fishing Co., from Gloucester, Mass.

PRODUCT: 1,913 10-pound boxes of frozen rosefish fillets at Chicago, Ill.

LABEL, IN PART: "Cello Rosefish Packed by Supreme Fillet Co."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of parasites.

DISPOSITION: October 14, 1947. Default decree of condemnation and destruction.

12689. Adulteration and misbranding of salmon. U. S. v. 231 Cartons, etc.
(F. D. C. No. 23664. Sample Nos. 66773-H, 66774-H.)

LIBEL FILED: September 4, 1947, Southern District of New York.

ALLEGED SHIPMENT: On or about August 2, 1947, by the Kent Packing Co., from Rock Hall, Md.

PRODUCT: 667 cartons, each containing 24 cans of salmon at New York, N. Y.

LABEL, IN PART: "Jo-Mey Pink [or "Red"] Salmon Food Marketers Distributors New York, N. Y."

NATURE OF CHARGE: Adulteration, Section 402 (a) (2), the portion labeled "Pink Salmon" consisted in whole or in part of decomposed fish; and, Section 402 (b) (2), the remainder consisted of fish other than red salmon, which had been substituted in whole or in part for red salmon.

Misbranding, Section 403 (a), the designation "Red Salmon" was false and misleading as applied to an article other than red salmon.

DISPOSITION: January 28, 1948. Joseph Spira, New York, N. Y., claimant, having admitted the allegations of the libel, judgment of condemnation was entered. The product was released under bond, conditioned that the lot labeled "Pink Salmon" be destroyed and that the lot labeled "Red Salmon" be relabeled, under the supervision of the Federal Security Agency.

12690. Adulteration of frozen whiting fillets. U. S. v. 2,096 Boxes * * *.
(F. D. C. No. 23964. Sample No. 14102-K.)

LIBEL FILED: November 17, 1947, Northern District of Illinois.

ALLEGED SHIPMENT: On or about October 23, 1947, by the General Freezer & Storage Co., Inc., from New Bedford, Mass.

PRODUCT: 2,096 boxes, each containing 10 pounds, of frozen whiting fillets at Chicago, Ill.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance.

DISPOSITION: March 17, 1948. Default decree of condemnation and destruction.

12691. Adulteration of canned oysters. U. S. v. 124 1-Gallon Cans * * *.
(F. D. C. No. 24183. Sample No. 4616-K.)

LIBEL FILED: On or about December 18, 1947, District of Rhode Island.

ALLEGED SHIPMENT: On or about November 3, 1947, by the Stavis Ipswich Clam Co., from Boston, Mass.

PRODUCT: 124 1-gallon cans of fresh oysters at Quonset Point, R. I.

LABEL, IN PART: "One Gallon Fresh Oysters Carl C. Green Dist. Co. Crisfield, Md.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a putrid substance.

DISPOSITION: January 23, 1948. The claimant having indicated its consent, judgment of condemnation was entered and the product was ordered destroyed.

12692. Adulteration of canned oysters. U. S. v. 48 Cases * * *. F. D. C. No. 23081. Sample No. 75809-H.)

LIBEL FILED: June 17, 1947, Northern District of California.

ALLEGED SHIPMENT: On or about November 12, 1946, by Jacob Hamburger, from Portland, Oreg.

PRODUCT: 48 cases, each containing 48 10-ounce cans, of oysters at San Francisco, Calif.

LABEL, IN PART: "Sea Gold Extra Fancy Whole and Sliced Pacific Oysters Packed by Harkness' Sea Gold Products Portland 16, Oreg."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance.

DISPOSITION: January 7, 1948. Default decree of condemnation and destruction.

12693. Misbranding of oysters. U. S. v. 2 Barrels * * *. (F. D. C. No. 24029. Sample No. 9354-K.)

LIBEL FILED: December 22, 1947, Middle District of Pennsylvania.

ALLEGED SHIPMENT: On or about December 9, 1947, by W. E. Riggin & Co., from Crisfield, Md.

PRODUCT: 2 barrels, containing a total of 250 cans, of oysters at Wilkes-Barre, Pa.

LABEL, IN PART: "Rig Co. Brand Salt Water Oysters."

NATURE OF CHARGE: Misbranding, Section 403 (g) (1), the product failed to conform to the definition and standard of identity for oysters (standards), since the oysters were not thoroughly drained.

DISPOSITION: February 19, 1948. Default decree of condemnation and destruction.

12694. Misbranding of raw oysters. U. S. v. 17 Barrels, etc. (F. D. C. No. 24028. Sample Nos. 6257-K, 6258-K.)

LIBEL FILED: December 18, 1947, Western District of Pennsylvania.

ALLEGED SHIPMENT: On or about December 15, 1947, by the Irvington Fish & Oyster Co., Inc., from Irvington, Va.

PRODUCT: Oysters. 24 barrels, each containing 160 1-pint cans, and 1 barrel, containing 136 1-pint cans, at Pittsburgh, Pa. Examination showed that the product contained added liquid in the amount of 12.1 percent in one portion and 13.4 percent in the remainder, indicating that they were not thoroughly drained.

LABEL, IN PART: "Irvington Brand Oysters Standard [or "Select"]."

NATURE OF CHARGE: Misbranding, Section 403 (g) (1), the articles purported to be and were represented as standard and select oysters and they failed to conform to the definition and standard of identity for such oysters, since such definition and standard provides that the oysters are thoroughly drained, whereas the articles were not thoroughly drained.

DISPOSITION: December 18, 1947. The Irvington Fish & Oyster Co., Inc., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond for the removal of surplus water and other objectionable fluid, under the supervision of the Federal Security Agency.

12695. Adulteration of frozen shrimp. U. S. v. 981 Pounds * * *. (F. D. C. No. 23459. Sample Nos. 91105-H, 91108-H.)

LIBEL FILED: June 30, 1947, Southern District of New York.

ALLEGED SHIPMENT: On or about May 30, 1947, by the Jumbo Shrimp Co., Morgan City, La.

PRODUCT: 981 pounds of frozen shrimp at New York, N. Y.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance.

DISPOSITION: January 12, 1948. The Blue Ribbon Fish Co., New York, N. Y., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond for segregation and destruction, or denaturing, of the unfit portion, under the supervision of the Federal Security Agency. The unfit shrimp, 88 pounds, was segregated and destroyed.

12696. Adulteration of frozen shrimp. U. S. v. 85 Cartons * * *. (F. D. C. No. 24138. Sample No. 8710-K.)

LIBEL FILED: December 2, 1947, Southern District of New York.

ALLEGED SHIPMENT: On or about July 30, 1947, by the Southport Shrimp Co., Bill Wells, and Swan & Downing, Southport, N. C., and R. V., Cathon & Sons, Georgetown, S. C., and Woodcleft Fisheries, Port Royal, S. C.

PRODUCT: 85 cartons, each containing 8 5-pound packages, of frozen shrimp at New York, N. Y.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

DISPOSITION: December 22, 1947. Default decree of condemnation and destruction.

12697. Adulteration of frozen shrimp. U. S. v. 184 Cases * * *. (F. D. C. No. 24018. Sample No. 22085-K.)

LIBEL FILED: December 11, 1947, Eastern District of Louisiana.

ALLEGED SHIPMENT: On or about November 15, 1947, by the Hammond Packing Co., from Exmore, Va. This was a return shipment.

PRODUCT: 184 5-pound cases of frozen shrimp at Hammond, La.

LABEL, IN PART: "Jo Ann Select Headless Frozen Shrimp * * * Golden Meadow Fisheries Co., Golden Meadow, La."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

DISPOSITION: February 7, 1948. Eunice J. Vinet, trading as the Golden Meadow Fisheries, claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond for segregation and destruction of the unfit portion.

FRUITS AND VEGETABLES

CANNED AND DRIED FRUIT

12698. Adulteration of canned blueberries. U. S. v. Sea-Land Foods Corporation (Sea-Land Frosted Foods Corporation). Plea of guilty. Fine, \$100. (F. D. C. No. 23323. Sample Nos. 43071-H, 57490-H.)

INFORMATION FILED: October 16, 1947, Western District of New York, against the Sea-Land Foods Corporation, formerly trading as the Sea-Land Frosted Foods Corporation, Boston, Mass. On November 13, 1947, the case was transferred to the District of Massachusetts.

ALLEGED SHIPMENT: On or about September 24 and 30, 1946, from the State of New York into the District of Columbia and the State of Massachusetts.

LABEL, IN PART: "Sea-Land Selected Blueberries," or "Monarch Blueberries * * * Distributors Reid, Murdoch & Co. Chicago, Ill."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a decomposed substance by reason of the presence of rotten and moldy berries.

DISPOSITION: December 15, 1947. A plea of guilty having been entered on behalf of the defendant, a fine of \$100 was imposed.

12699. Adulteration of canned cherries. U. S. v. 92 Cases * * * (and 1 other seizure action). (F. D. C. Nos. 23898, 24135. Sample Nos. 8785-K, 36902-K.)

LIBELS FILED: November 10 and 28, 1947, District of New Jersey and Southern District of New York.

ALLEGED SHIPMENT: On or about September 15 and 17, 1947, by the Starr Fruit Products Co., from Portland and Salem, Oreg.

PRODUCT: 92 cases at Paterson, N. J., and 22 cases at New York, N. Y., each case containing 24 1-pound, 4-ounce cans, of cherries.

LABEL, IN PART: "Crown Point Dark Sweet Cherries."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of rotten or moldy cherries.

DISPOSITION: December 7 and 8, 1947. Default decrees of condemnation and destruction.

12700. Misbranding of canned peaches and canned apricots. U. S. v. 748 Cases of Canned Peaches (and 1 seizure action against canned apricots).
(F. D. C. Nos. 23851, 24295. Sample Nos. 46441-H, 33225-K.)

LIBELS FILED: October 15, 1947, and January 2, 1948, Eastern District of Pennsylvania.

ALLEGED SHIPMENT: On or about September 8 and November 20, 1947, by Parrott & Co., from Stockton and San Francisco, Calif.

PRODUCT: 748 cases, each containing 24 1-pound cans, of peaches and 228 cases, each containing 48 1-pound cans, of apricots at Philadelphia, Pa.

LABEL, IN PART: "Kellogg's Supreme Quality Sliced Yellow Cling Peaches In Extra Heavy Syrup H. Kellogg & Sons Distributors, Philadelphia, Pa." or "Montco * * * Whole Peeled Apricots In Extra Heavy Syrup Wm. Montgomery Company Phila., Pa. Distributors."

NATURE OF CHARGE: Misbranding, Section 403 (g) (2), the labels of the products failed to bear the name of the optional packing medium present, since the labels bore the statement "In Extra Heavy Syrup," whereas the articles were packed in sirup designated as "Heavy Syrup" in the definition and standard of identity for canned peaches and canned apricots.

DISPOSITION: December 11, 1947, and February 9, 1948. H. Kellogg & Sons, Philadelphia, Pa., claimant for the canned peaches, and Parrott & Company, San Francisco, Calif., claimant for the canned apricots, having consented to the entry of decrees, judgments of condemnation were entered and the products were ordered released under bond to be relabeled under the supervision of the Food and Drug Administration.

12701. Misbranding of canned peaches. U. S. v. 83 Cases * * *. (F. D. C. No. 23867. Sample No. 55353-H.)

LIBEL FILED: October 31, 1947, Southern District of Florida.

ALLEGED SHIPMENT: On or about July 24, 1947, by Markham Brothers & Co., from Fort Valley, Ga.

PRODUCT: 83 cases, each containing 24 1-pound, 5-ounce cans, of peaches at Jacksonville, Fla.

LABEL, IN PART: "Pride of Georgia Peaches In Heavy Syrup Yellow Free-stone Slices."

NATURE OF CHARGE: Misbranding, Section 403 (h) (1), the article was substandard in quality, since it failed to meet the test for tenderness prescribed by the regulations, and all units were not untrimmed or so trimmed as to preserve normal shape, as required by the regulations; and, in addition, the label failed to bear a substandard legend, as required by the regulations.

DISPOSITION: December 2, 1947. Markham Brothers & Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond for relabeling, under the supervision of the Federal Security Agency.

12702. Misbranding of canned dried prunes. U. S. v. 1,017 Cases * * *. (F. D. C. No. 23814. Sample No. 75067-H.)

LIBEL FILED: October 17, 1947, Western District of Washington.

ALLEGED SHIPMENT: On or about August 28, 1947, by the Ace Packing Co., Castroville, Calif.

PRODUCT: 1,017 cases, each containing 24 1-pound, 5-ounce cans, of dried prunes at Seattle, Wash.

LABEL, IN PART: "Top Line Brand Dried Prunes In Heavy Syrup Contents 1 Lb. 5 Ozs."

NATURE OF CHARGE: Misbranding, Section 403 (e) (2), the product failed to bear a label containing an accurate statement of the quantity of the contents. (The product was short-weight.)

DISPOSITION: January 19, 1948. The Fortune Fisheries, San Francisco, Calif., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond to be relabeled under the supervision of the Food and Drug Administration.

12703. Adulteration of canned raspberries. U. S. v. 64 Cases, etc. (and 1 other seizure action). (F. D. C. Nos. 23812, 23813. Sample Nos. 7009-K, 7010-K, 7013-K.)

LIBELS FILED: October 17, 1947, Western District of Pennsylvania.

ALLEGED SHIPMENT: On or about August 6 and 16, 1947, by the Erie County Frosted Foods & Canning Corporation, from Angola, N. Y.

PRODUCT: 97 cases, each containing 24 1-pound, 4-ounce cans, of black raspberries and 18 cases, each containing 24 1-pound, 3-ounce cans, of red raspberries, at McKeesport and Pittsburgh, Pa.

LABEL, IN PART: "Pride of Evans Brand Black [or "Columbian Red"] Raspberries."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of rotten berries.

DISPOSITION: January 5, 1948. Default decrees of condemnation and destruction.

12704. Adulteration of dried apricots. U. S. v. 100 Cases * * *. (F. D. C. No. 24339. Sample No. 831-K.)

LIBEL FILED: February 11, 1948, Southern District of Florida.

ALLEGED SHIPMENT: On or about November 22, 1947, by Rosenberg Bros. & Co., from Santa Clara, Calif.

PRODUCT: 100 cases, each containing 30 pounds, of dried apricots at Tampa, Fla.

LABEL, IN PART: "Tru-Ripe Brand Dried Apricots prepared with Sulphur Dioxide."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insect-infested and dirty apricots.

DISPOSITION: March 19, 1948. Rosenberg Bros. & Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond for use other than for human consumption, by conversion into stock feed, or for distillation purposes, under the supervision of the Federal Security Agency. On May 7, 1948, an order was entered, amending the decree previously entered and providing for the destruction of the product.

12705. Adulteration of dried nectarines. U. S. v. 49 Cases * * *. (F. D. C. No. 24196. Sample No. 33220-K.)

LIBEL FILED: January 22, 1947, Eastern District of Pennsylvania.

ALLEGED SHIPMENT: On or about November 6, 1947, by the Bonner Packing Co., from Fresno, Calif.

PRODUCT: 49 30-pound cases of nectarines at Philadelphia, Pa.

LABEL, IN PART: "Bonner Brand Ungraded California Nectarines."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of larvae, beetles, and insect excreta.

DISPOSITION: January 7, 1947. The shipper having consented, judgment of condemnation was entered ordering the product destroyed.

FRESH AND FROZEN FRUIT

12706. Adulteration of apples. U. S. v. 3,200 Bushels * * *. (F. D. C. No. 24360. Sample Nos. 6049-K, 6050-K.)

LIBEL FILED: January 2, 1948, Western District of Pennsylvania.

ALLEGED SHIPMENT: On or about December 1, 3, 6, 8, and 9, 1947, by the Chelan Apple Company, from Chelan, Wash.

PRODUCT: 3,200 bushel boxes of apples at Pittsburgh, Pa.

LABEL, IN PART: "Fancy Winesap * * * Cream of Chelan Washington Apples. Distributed by H. S. Denison & Co., Wenatchee, Washington."

NATURE OF CHARGE: Adulteration, Section 402 (a) (1), the product contained added poisonous and deleterious substances, arsenic and lead, which may have rendered it injurious to health.

DISPOSITION: January 8, 1948. H. S. Denison & Co., Inc., having appeared as claimant, judgment of condemnation was entered and the product was ordered

released under bond to be brought into compliance with the law by washing and brushing to remove the deleterious substances, under the supervision of the Federal Security Agency.

12707. Adulteration of fresh and frozen blueberries. U. S. v. 14 Cans, etc.
(F. D. C. No. 23707. Sample Nos. 13005-K, 13006-K.)

LIBEL FILED: September 16, 1947, Eastern District of Pennsylvania.

ALLEGED SHIPMENT: On or about September 9, 1947, by Joseph Lanza, from Elwood, N. J.

PRODUCT: 14 40-pound cans of fresh blueberries and 98 40-pound cans of frozen blueberries at Philadelphia, Pa.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of maggots.

DISPOSITION: December 1, 1947. Default decree of condemnation and destruction.

12708. Adulteration of frozen cherries. U. S. v. 272 Cans * * * (and 1 other seizure action). (F. D. C. Nos. 23933, 23940, 23941. Sample Nos. 30810-K, 30813-K to 30815-K, incl.)

LIBELS FILED: October 22 and 29, 1947, Southern District of California.

ALLEGED SHIPMENT: On or about August 12 and 15, 1947, by E. J. Nugent & Son, from Loveland, Colo.

PRODUCT: 514 30-pound cans of frozen cherries at Glendale and Long Beach, Calif.

LABEL, IN PART: "Frozen Montmorency R. S. P. Cherries."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of being fermented.

DISPOSITION: December 29, 1947. Default decrees of condemnation and destruction.

12709. Adulteration of frozen strawberries. U. S. v. 300 Cans * * * (and 3 other seizure actions). (F. D. C. Nos. 23698, 23706, 23741, 23757. Sample Nos. 55541-H, 85005-H to 85009-H, incl., 85715-H.)

LIBELS FILED: September 11, 12, and 16, 1947, District of Columbia, Middle District of North Carolina, and Western District of Pennsylvania.

ALLEGED SHIPMENT: Between the approximate dates of June 3 and August 6, 1947, by the Ivens & Hudson Oyster Co., from Rock Hall, Md.

PRODUCT: Frozen strawberries. 300 25-pound cans at Washington D. C.; 998 25-pound cans at Lexington, N. C.; and 350 25-pound cans and 1,967 cartons, each carton containing 24 1-pound packages, at Pittsburgh, Pa.

LABEL, IN PART: "Liberty Brand Frozen Whole Strawberries."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance.

DISPOSITION: October 10, 13, and 17, 1947. The Ivens and Hudson Oyster Co., claimant, having admitted the allegations of the libels, judgments of condemnation were entered and the product was ordered released under bond to be brought into compliance with the law, under the supervision of the Food and Drug Administration. The product was reconditioned by the removal of all decomposed berries.

12710. Adulteration of frozen strawberries. U. S. v. 888 Cans * * *. (F. D. C. No. 24288. Sample Nos. 3814-K, 3815-K.)

LIBEL FILED: On or about February 2, 1948, District of Maryland.

ALLEGED SHIPMENT: On or about December 15, 1947, by the Kent Packing Co. from Washington, D. C. This was a return shipment.

PRODUCT: 888 cans, each containing 25 pounds, of frozen strawberries at Rock Hall, Md.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of rotten strawberries.

DISPOSITION: January 14, 1948. The Kent Packing Co., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be brought into compliance with the law, under the supervision of the Food and Drug Administration.

MISCELLANEOUS FRUIT PRODUCTS*

12711. Adulteration of guava paste. U. S. v. 100 Cartons * * *. (F. D. C. No. 23630. Sample No. 65887-H.)

LIBEL FILED: August 8, 1947, Eastern District of Pennsylvania.

ALLEGED SHIPMENT: On or about March 28 and April 25, 1947, by Charles R. Allen, from Charleston, S. C.

PRODUCT: 100 20-pound cartons of guava paste at Philadelphia, Pa.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent hair fragments, rodent excreta fragments, and insect parts, and of a decomposed substance by reason of being fermented.

DISPOSITION: September 29, 1947. Default decree of condemnation and destruction.

12712. Misbranding of blackberry jelly. U. S. v. 19 Cases * * * (and 2 other seizure actions). (F. D. C. Nos. 23860, 23861, 24171. Sample Nos. 601-K, 604-K, 818-K.)

LIBELS FILED: On or about October 22 and December 12, 1947, Western District of North Carolina and Southern District of Florida.

ALLEGED SHIPMENT: On or about July 18 and 23 and October 28, 1947, by Shuford Foods (Seale Associates), from Atlanta, Ga.

PRODUCT: Blackberry jelly. 21 cases at Spruce Pine, N. C., 19 cases at Murphy, N. C., and 100 cases at Tampa, Fla. Each case contained 24 jars.

LABEL, IN PART: "Georgia Miss Pure Sure Blackberry Jelly 11 Ounces [or "16 Ounces"]."

NATURE OF CHARGE: Misbranding, Section 403 (e) (2), (all lots) the product failed to bear a label containing an accurate statement of the quantity of the contents (the jars were short-weight); and, Section 403 (g) (1), (North Carolina lots) the product failed to conform to the definition and standard of identity for blackberry jelly, since the article was made of a mixture composed of less than 45 parts by weight of the fruit juice ingredient to each 55 parts by weight of one of the saccharine ingredients.

Adulteration, Section 402 (b) (2), (North Carolina lots) a product deficient in fruit juice had been substituted for blackberry jelly.

DISPOSITION: January 21, 27, and 29, 1948. Default decrees of condemnation. The product was ordered delivered to public and charitable institutions.

12713. Adulteration and misbranding of peach preserves. U. S. v. 27 Cases * * * (and 1 other seizure action). (F. D. C. Nos. 23849, 23850. Sample Nos. 406-K, 407-K.)

LIBELS FILED: October 13, 1947, Western District of North Carolina.

ALLEGED SHIPMENT: On or about August 21, 1947, by the Atlantic Preserving Co., from Atlanta, Ga.

PRODUCT: 50 cases, each containing 24 15-ounce jars, of peach preserves at Charlotte, N. C.

LABEL, IN PART: (Jars) "Mrs. Bell's Home Made Peach Preserves * * * Mrs. Bell Preserving Co., Atlanta, Ga."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), a product of less than 65 percent soluble solids content had been substituted for peach preserves.

Misbranding, Section 403 (g) (1), the article failed to conform to the definition and standard of identity for peach preserves, since it had not been concentrated by heat to such point that the soluble solids content of the finished preserve was not less than 65 percent, the minimum permitted by the definition and standard.

DISPOSITION: November 19, 1947. Default decrees of condemnation. The product was ordered delivered to charitable institutions.

12714. Adulteration of strawberry preserves. U. S. v. 198 Cases * * *. (F. D. C. No. 23738. Sample No. 75848-H.)

LIBEL FILED: September 9, 1947, Western District of New York.

*See also No. 12746.

ALLEGED SHIPMENT: On or about August 6, 1947, by Golden Gate Foods, Inc., from Berkeley, Calif.

PRODUCT: 198 cases, each containing 24 1-pound jars, of strawberry preserves at Buffalo, N. Y.

LABEL, IN PART: "Granger's Strawberry Preserves."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of decomposed strawberry material.

DISPOSITION: December 23, 1947. Default decree of condemnation and destruction.

12715. Adulteration of strawberry preserves. U. S. v. 196 Cases * * *.
(F. D. C. No. 23784. Sample No. 6003-K.)

LIBEL FILED: October 1, 1947, Western District of Pennsylvania.

ALLEGED SHIPMENT: On or about July 15, 1947, by the Red Wing Company, Inc., Fredonia, N. Y.

PRODUCT: 196 cases, each containing 24 1-pound jars, of strawberry preserves at Pittsburgh, Pa.

LABEL, IN PART: "Red Wing Pure Strawberry Preserves."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of decomposed strawberry material.

DISPOSITION: January 26, 1948. Default decree of condemnation and destruction.

VEGETABLES AND VEGETABLE PRODUCTS*

12716. Adulteration of canned Mexican Style beans. U. S. v. Ladoga Canning Co. Plea of nolo contendere. Fine, \$500, plus costs. (F. D. C. No. 23592. Sample Nos. 41074-H, 86636-H.)

INFORMATION FILED: October 21, 1947, Eastern District of Illinois, against the Ladoga Canning Co., a corporation, Mound City, Ill.

ALLEGED SHIPMENT: On or about November 25 and December 5, 1946, from the State of Illinois into the States of Arkansas and Tennessee.

LABEL, IN PART: "Boone County Brand Mexican Style Beans In Chili Gravy."

NATURE OF CHARGE: Adulteration, Section 402 (a) (1), the product contained an added deleterious substance, burrs, which may have rendered it injurious to health.

DISPOSITION: November 19, 1947. A plea of guilty having been entered on behalf of the defendant, a fine of \$500 and costs was imposed.

12717. Adulteration of canned Mexican Style beans. U. S. v. 122 Cases * * *.
(F. D. C. No. 23419. Sample No. 76964-H.)

LIBEL FILED: August 19, 1947, District of Minnesota.

ALLEGED SHIPMENT: On or about July 8, 1947, by the Ladoga Canning Co., from Lebanon, Ind.

PRODUCT: 122 cases, each containing 24 1-pound, 4-ounce cans, of Mexican Style beans at St. Paul, Minn.

LABEL, IN PART: "Boone County Brand Mexican Style Beans In Chili Gravy."

NATURE OF CHARGE: Adulteration, Section 402 (a) (1), the product contained burrs, an added deleterious substance, which may have rendered it injurious to health.

DISPOSITION: December 15, 1947. No claimant having appeared, judgment was entered ordering the product destroyed.

12718. Adulteration of frozen broccoli. U. S. v. 20 Cases * * *. (F. D. C. No. 24307. Sample Nos. 30062-K, 30072-K.)

LIBEL FILED: January 22, 1948, District of Arizona.

ALLEGED SHIPMENT: On or about July 2, 1947, by the Booth Cold Storage Co., from St. Paul, Minn.

*See also No. 12746.

PRODUCT: 20 cases, each containing 12 packages, of frozen broccoli at Phoenix, Ariz.

LABEL, IN PART: (Packages) "Booth Famous Foods Quick Frozen Trimmed Cleaned Broccoli Net Weight 2 Pounds Distributed by Booth Fisheries Corporation Chicago, Illinois."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance.

DISPOSITION: March 30, 1948. Default decree of condemnation and destruction.

12719. Adulteration of strained peas. U. S. v. 598 Cases * * * (and 1 other seizure action). (F. D. C. Nos. 23431, 23432. Sample Nos. 61373-H, 61376-H.)

LIBELS FILED: August 27 and 28, 1947, Northern District of Ohio and Western District of Pennsylvania.

ALLEGED SHIPMENT: On or about July 9 and 16, 1947, by the H. J. Heinz Co., from Medina, N. Y.

PRODUCT: Strained peas. 598 cases at Youngstown, Ohio, and 3,594 cases at Pittsburgh, Pa., each case containing 24 4¾-ounce jars.

LABEL, IN PART: "Heinz Strained Peas."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of larvae.

DISPOSITION: December 12 and 22, 1947. Default decrees of condemnation and destruction.

12720. Misbranding of canned peas. U. S. v. 1,250 Cases * * *. (F. D. C. No. 23799. Sample No. 28410-K.)

LIBEL FILED: October 10, 1947, District of Colorado.

ALLEGED SHIPMENT: On or about September 10, 1946, by the Dundas Canning Co., from Dundas, Wis.

PRODUCT: 1,250 cases, each containing 6 6-pound, 12-ounce cans, of peas at Denver, Colo.

LABEL, IN PART: "Upper Deck Sweet Peas * * * Distributed by Fall River Canning Co., Fall River, Wisconsin."

NATURE OF CHARGE: Misbranding, Section 403 (h) (1), the product failed to conform to the standard of quality for canned peas, since it failed to meet the test for tenderness prescribed by the regulations; and the label failed to bear the substandard legend.

DISPOSITION: January 7, 1947. The Dundas Canning Co., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be relabeled under the supervision of the Food and Drug Administration.

12721. Adulteration of dill pickles. U. S. v. Joseph Bertman (Bertman Products). Plea of guilty. Fine, \$200 and costs. (F. D. C. No. 23586. Sample No. 6547-H.)

LIBEL FILED: October 10, 1947, Northern District of Ohio, against Joseph Bertman, trading as Bertman Products, Cleveland, Ohio.

ALLEGED SHIPMENT: On or about March 4, 1947, from the State of Ohio into the State of New York.

LABEL, IN PART: "Bertman Kosher Dills."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a filthy substance by reason of the presence of insect fragments and larvae.

DISPOSITION: December 22, 1947. A plea of guilty having been entered, the defendant was fined \$200, plus costs.

12722. Adulteration of spinach. U. S. v. Pacific Gamble Robinson Co. (Pacific Fruit & Produce Co.). Plea of nolo contendere. Fine, \$1,000. (F. D. C. No. 23615. Sample Nos. 89222-H, 89235-H to 89237-H, incl.)

INFORMATION FILED: November 3, 1947, District of Colorado, against the Pacific Gamble Robinson Co., a corporation, trading as the Pacific Fruit & Produce Co., at Denver, Colo.

ALLEGED SHIPMENT: On or about June 6 and 11, 1947, from the State of Colorado into the States of Nebraska and Wyoming.

LABEL, IN PART: "Garden Fresh Spinach."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a filthy substance by reason of the presence of live maggots, larvae, insect eggs, insect fragments, whole insects, flies, fly eggs, a rodent hair, sand, and feather barbules; and, Section 402 (a) (4), it had been prepared and packed under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: February 17, 1948. A plea of nolo contendere having been entered on behalf of the defendant, a fine of \$1,000 was imposed.

TOMATOES AND TOMATO PRODUCTS*

12723. Adulteration and misbranding of canned tomatoes. U. S. v. 500 Cases * * *. (F. D. C. No. 23802. Sample No. 24407-K.)

LIBEL FILED: October 9, 1947, Northern District of Iowa.

ALLEGED SHIPMENT: On or about August 28, 1947, by Roberts Brothers, Inc., from Baltimore, Md.

PRODUCT: 500 cases, each containing 24 1-pound, 3-ounce cans, of tomatoes at Sioux City, Iowa.

LABEL, IN PART: "Roberts Big R Brand Tomatoes."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

Misbranding, Section 403 (g) (1), the product failed to conform to the definition and standard of identity for canned tomatoes, since it had not been processed by heat so as to prevent spoilage.

DISPOSITION: November 7, 1947. Roberts Brothers, Inc., defendant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond for segregation of the unfit portion. 522 cases of the product were seized, 106⁹/₂₄ cases were segregated and destroyed, and 412¹⁵/₂₄ cases were released.

12724. Misbranding of canned tomatoes. U. S. v. 212 Cases * * *. (F. D. C. No. 23892. Sample No. 26903-K.)

LIBEL FILED: November 4, 1947, Eastern District of Missouri.

ALLEGED SHIPMENT: On or about September 2, 1947, by the Hargis Canneries, Inc., from Fayetteville, Ark.

PRODUCT: 212 cases, each containing 6 6-pound, 6-ounce cans, of tomatoes at St. Louis, Mo.

LABEL, IN PART: "Hand Packed Hargis Brand Tomatoes."

NATURE OF CHARGE: Misbranding, Section 403 (h) (1), the article was substandard in quality because the drained weight was less than 50 percent of the weight of water required to fill the container, and it was not labeled to show that it was substandard.

DISPOSITION: January 6, 1948. The Hargis Canneries, Inc., having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond for relabeling under the supervision of the Federal Security Agency.

12725. Misbranding of canned tomatoes. U. S. v. 95 Cases * * *. (F. D. C. No. 23848. Sample No. 28418-K.)

LIBEL FILED: October 14, 1947, District of Colorado.

ALLEGED SHIPMENT: On or about March 26, 1947, by the G. W. Dodgen Canning Co., from Reeds Spring, Mo.

PRODUCT: 95 cases, each containing 24 1-pound, 3-ounce cans, of tomatoes at Denver, Colo.

LABEL, IN PART: "Baron Brand Tomatoes * * * Packed by Baron Canning Co. Westville, Okla."

*See also Nos. 12602-12611.

NATURE OF CHARGE: Misbranding, Section 403 (h) (1), the product fell below the standard of quality for canned tomatoes, since it failed to meet the test for drained weight prescribed by the regulations; and its label failed to bear the substandard legend.

DISPOSITION: December 9, 1947. The sole intervener having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered delivered to charitable institutions.

12726. Adulteration of canned tomato paste. U. S. v. San Jose Canning Co., Ignatius Rancadore, and Eugene J. Filice. Plea of nolo contendere. Company fined \$100; individuals each fined \$1.00. (F. D. C. No. 24063. Sample No. 75966-H.)

INFORMATION FILED: January 7, 1948, Northern District of California, against the San Jose Canning Co., San Jose, Calif., a partnership, and Ignatius Rancadore and Eugene J. Filice, partners.

ALLEGED SHIPMENT: On or about March 17, 1947, from the State of California into the State of New York.

LABEL, IN PART: "Verona Brand Tomato Paste."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a filthy substance by reason of the presence of worm fragments.

DISPOSITION: February 19, 1948. Pleas of nolo contendere having been entered by the defendants, the partnership was fined \$100 and the individual defendants were each fined \$1.00.

12727. Adulteration of canned tomato paste. U. S. v. 499 Cases * * *. (F. D. C. No. 22956. Sample No. 75966-H.)

LIBEL FILED: April 21, 1947, Eastern District of New York.

ALLEGED SHIPMENT: On or about March 17, 1947, by the San Jose Canning Co., from San Jose, Calif.

PRODUCT: 499 cases, each containing 96 6-ounce cans, of tomato paste at Brooklyn, N. Y.

LABEL, IN PART: "Verona Brand Tomato Paste."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of worm fragments.

DISPOSITION: October 14, 1947. The San Jose Canning Co., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond for segregation and denaturing of the unfit portion, under the supervision of the Federal Security Agency.

NUTS

12728. Adulteration of brazil nuts. U. S. v. 160 Bags * * * (and 3 other seizure actions). (F. D. C. Nos. 23895, 23935, 23993, 24139. Sample Nos. 3803-K, 6209-K, 12216-K, 12235-K.)

LIBELS FILED: October 29, November 6 and 26, and December 8, 1947, Western, Eastern, and Middle Districts of Pennsylvania, and District of Maryland.

ALLEGED SHIPMENT: Between the approximate dates of September 22, and October 30, 1947, by the Graham Co., Inc., from New York, N. Y.

PRODUCT: Brazil nuts. 160 bags at Pittsburgh, Pa.; 25 bags at Hazelton, Pa.; 19 bags at Baltimore, Md.; and 57 bags at Philadelphia, Pa. Each bag contained 50 pounds.

LABEL, IN PART: "Red Bow."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), two lots consisted in whole or in part of a decomposed substance by reason of the presence of moldy, rancid, and decomposed nuts; one lot consisted in whole or in part of a filthy and decomposed substance by reason of the presence of wormy, moldy, and otherwise decomposed nuts; and the fourth lot consisted in whole or in part of a decomposed substance by reason of the presence of moldy and rancid nuts, and this lot was otherwise unfit for food by reason of the presence of shriveled nuts.

DISPOSITION: November 25, 1947. The Graham Co., Inc., claimant for the Pittsburgh lot, having admitted the allegations of the libel, judgment of con-

demnation was entered and the product was ordered released under bond, conditioned that the unfit portion be segregated and destroyed under the supervision of the Food and Drug Administration.

February 8, 1947, and January 7 and 27, 1948. No claimant having appeared for the remaining lots, judgments of condemnation were entered and the product was ordered destroyed.

12729. Adulteration of brazil nuts. U. S. v. 141 Bags * * * (and 1 other seizure action). (F. D. C. Nos. 23908, 24111. Sample Nos. 12220-K, 12223-K.)

LIBELS FILED: November 10 and 17, 1947, Eastern District of Pennsylvania.

ALLEGED SHIPMENT: On or about September 9, 18, and 22, 1947, by T. M. Duche & Sons, Inc., from New York, N. Y.

PRODUCT: 141 95-pound bags and 27 100-pound bags of brazil nuts at Philadelphia, Pa.

LABEL, IN PART: "World Duche Brand * * * New Crop Large Washed Brazils."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of moldy, rancid, and decomposed brazil nuts.

DISPOSITION: December 9 and 10, 1947. T. M. Duche & Sons, Inc., claimant, having consented to the entry of decrees, judgments of condemnation were entered and the product was ordered released under bond for segregation and removal of the unfit portion, under the supervision of the Federal Security Agency.

12730. Adulteration of brazil nuts. U. S. v. 112 Bags * * * (and 1 other seizure action). (F. D. C. Nos. 24004, 24005. Sample Nos. 18731-K, 18734-K.)

LIBELS FILED: December 5, 1947, Western District of Kentucky.

ALLEGED SHIPMENT: On or about September 29 and October 7 and 21, 1947, by the Great A. & P. Tea Co., from New York, N. Y.

PRODUCT: 273 100-pound bags of brazil nuts at Louisville, Ky.

LABEL, IN PART: "Holly Brazil Nuts Packed by Wm. A. Higgins & Co., Inc., New York, N. Y."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of rancid and decomposed brazil nuts, and a portion of the article was otherwise unfit for food by reason of the presence of empty shells.

DISPOSITION: January 8, 1948. Wm. A. Higgins & Co., Inc., claimant, having consented to the entry of decrees, judgments of condemnation were entered and the product was ordered released under bond to be brought into compliance with the law, under the supervision of the Food and Drug Administration.

12731. Adulteration of brazil nuts. U. S. v. 175 Bags * * *. (F. D. C. No. 24174. Sample No. 9250-K.)

LIBEL FILED: December 9, 1947, Southern District of New York.

ALLEGED SHIPMENT: On or about November 20, 1947, by Jas. A. Descalzi, from Pittsburgh, Pa. This was a return shipment.

PRODUCT: 175 100-pound bags of brazil nuts at New York, N. Y.

LABEL, IN PART: "Sun. Glo Selected Brazil Nuts * * * Packed by Wm. A. Higgins & Co., Inc. New York."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of moldy brazil nuts.

DISPOSITION: December 17, 1947. Wm. A. Higgins & Co., Inc., New York, N. Y., claimant, having admitted the allegations of the libel, judgment of condemnation was entered ordering the product released under bond, conditioned that the unfit portion be segregated and destroyed under the supervision of the Food and Drug Administration.

12732. Adulteration of brazil nuts. U. S. v. 10 Boxes * * *. (F. D. C. No. 24162. Sample No. 12234-K.)

LIBEL FILED: December 1, 1947, Eastern District of Pennsylvania.

ALLEGED SHIPMENT: On or about October 15, 1947, by William A. Higgins & Co., Inc., from New York, N. Y.

PRODUCT: 10 40-pound boxes of brazil nuts at Allentown, Pa.

LABEL, IN PART: "New Crop Holly Brand Brazil Nuts."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of wormy brazil nuts and of a decomposed substance by reason of the presence of moldy and otherwise decomposed brazil nuts, and it was otherwise unfit for food by reason of the presence of empty shells.

DISPOSITION: January 19, 1948. Default decree of condemnation and destruction.

12733. Adulteration of filberts. U. S. v. 30 Bags * * *. (F. D. C. No. 24133. Sample No. 12224-K.)

LIBEL FILED: November 25, 1947, Eastern District of Pennsylvania.

ALLEGED SHIPMENT: On or about October 16, 1947, by Wm. A. Higgins & Co., Inc., from New York, N. Y.

PRODUCT: 30 100-pound bags of filberts at Philadelphia, Pa.

LABEL, IN PART: "Ensign Brand Oregon No. 1 Large Barcelona Filberts Packed by Rosenberg Bros. & Co., San Francisco, Calif."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), empty shells had been substituted in whole or in part for filberts.

DISPOSITION: December 10, 1947. Wm. A. Higgins & Co., Inc., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond for segregation and removal of the unfit portion, under the supervision of the Federal Security Agency.

12734. Adulteration of peanuts. U. S. v. 38 Bags * * *. (F. D. C. No. 24109. Sample No. 12308-K.)

LIBEL FILED: November 17, 1947, Eastern District of Pennsylvania.

ALLEGED SHIPMENT: On or about October 13, 1947, by the Farmers Gin & Warehouse Co., from Blakely, Ga.

PRODUCT: 38 bags, each containing 125 pounds, of peanuts at Philadelphia, Pa.

NATURE OF CHARGE: Adulteration, Section 402 (a) (2), the article contained an added deleterious substance, sulfuric acid, which is unsafe within the meaning of the law, since it is a substance not required in the production of the article and could have been avoided by good manufacturing practice.

DISPOSITION: December 18, 1947. Default decree of condemnation and destruction.

12735. Adulteration of mixed nuts. U. S. v. 207 Cases * * *. (F. D. C. No. 24110. Sample No. 12222-K.)

LIBEL FILED: November 18, 1947, Eastern District of Pennsylvania.

ALLEGED SHIPMENT: On or about September 30, 1947, by the Graham Co., Inc., New York, N. Y.

PRODUCT: 207 cases, each containing 24 1-pound boxes, of mixed nuts at Philadelphia, Pa.

LABEL, IN PART: "Redbow Extra Fancy Mixed Nuts Walnuts—Almonds—Brazils—Pecans—Filberts."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of moldy and rancid brazil nuts.

DISPOSITION: January 7, 1948. Default decree of condemnation and destruction.

12736. Adulteration of salted nuts. U. S. v. 6 Cartons, etc. (F. D. C. No. 23890. Sample Nos. 3503-K, 3540-K.)

LIBEL FILED: November 3, 1947, District of Maryland.

ALLEGED SHIPMENT: On or about October 8, 1947, by the Kelling Nut Company, from Passaic, N. J.

PRODUCT: 6 cartons, each containing 5 pounds, of salted cashews and 5 5-pound cartons of salted mixed nuts at Glen Burnie, Md.

LABEL, IN PART: "Salted De Luxe Cashews," or "Salted Family Mix."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the cashews consisted in whole or in part of a filthy substance by reason of the presence of wormy cashews, and the mixed nuts consisted in whole or in part of a filthy and decomposed substance by reason of the presence of wormy cashews and moldy filberts.

DISPOSITION: December 5, 1947. Default decree of condemnation and destruction.

POULTRY

12737. Adulteration of frozen poultry. U. S. v. 30 Barrels, etc. (F. D. C. No. 21182. Sample Nos. 32835-H, 32836-H.)

LIBEL FILED: October 21, 1946, Southern District of Indiana.

ALLEGED SHIPMENT: On or about August 23, 1946, by Harry Smith of the Cincinnati Terminal Warehouse Co., from Cincinnati, Ohio. This was a return shipment by the consignee to the original shipper.

PRODUCT: Frozen poultry. 30 barrels, each containing from 200 to 225 pounds, 2 barrels, each containing 200 pounds, and 25 cartons, each containing approximately 90 to 100 pounds, at Worthington, Ind., in possession of the Hoeser Poultry Co.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of decomposed birds.

DISPOSITION: November 26, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

12738. Adulteration of frozen drawn poultry. U. S. v. 303 Crates * * *. (F. D. C. No. 20703. Sample No. 5398-H.)

LIBEL FILED: August 7, 1946, District of Delaware.

ALLEGED SHIPMENT: On or about July 20, 1946, by the Tri State Poultry Cooperative, Inc., from Salisbury, Md.

PRODUCT: 303 crates of frozen drawn poultry at Dover, Del.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance.

DISPOSITION: August 28, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed. On September 30, 1946, this order was amended to permit the product to be rendered into fats.

12739. Adulteration of frozen dressed poultry. U. S. v. 109 Crates * * *. (F. D. C. No. 21264. Sample No. 1956-H.)

LIBEL FILED: October 25, 1946, Northern District of Georgia.

ALLEGED SHIPMENT: On or about August 13, 1946, by Donnes Frozen Foods, from Thibodaux, La.

PRODUCT: 109 crates of frozen poultry at Gainesville, Ga.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance.

DISPOSITION: November 5, 1946. J. D. Jewell, Inc., Gainesville, Ga., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond, conditioned that it be thawed and that the unfit portion be segregated and denatured under the supervision of the Food and Drug Administration.

12740. Adulteration of frozen dressed poultry. U. S. v. 140 Boxes, etc. (F. D. C. No. 20801. Sample Nos. 5399-H, 5400-H.)

LIBEL FILED: September 11, 1946, District of Delaware.

ALLEGED SHIPMENT: On or about August 29, 1946, by the Acme Poultry Corporation, from Berlin, Md.

PRODUCT: 140 boxes, containing a total of 7,835 pounds, and 160 boxes, containing a total of 9,012 pounds, of frozen dressed poultry at Dover, Del.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of contamination with fecal matter and of a decomposed substance by reason of the presence of decomposed poultry.

DISPOSITION: September 30, 1946. The Acme Poultry Corporation, claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond to be disposed of in accordance with the law, under the supervision of the Federal Security Agency.

12741. Adulteration of dressed turkeys. U. S. v. 288 Boxes * * *. (F. D. C. No. 24200. Sample No. 15016-K.)

LIBEL FILED: November 25, 1947, Northern District of Illinois.

ALLEGED SHIPMENT: On or about October 22, 1947, by the Bitney Poultry Co., from Kalispell, Mont.

PRODUCT: 288 boxes of turkeys at Chicago, Ill. The boxes were marked with various weights, "Net 128," etc.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of decomposed birds.

DISPOSITION: December 18, 1947. W. W. Mangold and William Wilhem, owners, Cargill Incorporated, mortgagee, and F. A. Bitney, trading as the Bitney Poultry Co., shipper, having appeared as claimants, and having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond, conditioned that the unfit portion be segregated and destroyed under the supervision of the Food and Drug Administration. A total of 737 turkeys, weighing 12,528 pounds, were rejected, and were destroyed by rendering.

12742. Adulteration of frozen dressed turkeys. U. S. v. 51 Barrels * * *. (F. D. C. No. 20836. Sample No. 15379-H.)

LIBEL FILED: September 26, 1946, Northern District of Illinois.

ALLEGED SHIPMENT: On or about August 10, 1946, by the Holbrook Turkey Growers, from Cheraw, Colo.

PRODUCT: 51 barrels of frozen dressed turkeys at Chicago, Ill. Examination showed the presence of diseased birds.

NATURE OF CHARGE: Adulteration, Section 402 (a) (5), the article was in whole or in part the product of a diseased animal.

DISPOSITION: November 25, 1946. The Great Western Distributors, Inc., New York, N. Y., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond for segregation and destruction of the unfit portion, under the supervision of the Federal Security Agency.

SPICES, FLAVORS, AND SEASONING MATERIALS

12743. Adulteration of anise seed. U. S. v. 1 Bag * * *. (F. D. C. No. 22792. Sample No. 52316-H.)

LIBEL FILED: March 28, 1947, Northern District of Iowa.

ALLEGED SHIPMENT: On or about January 29, 1947, by the American Spice Mills, Inc., from Chicago, Ill.

PRODUCT: 1 50-pound bag of anise seed at Sioux City, Iowa.

LABEL, IN PART: "Recleaned Whole Anise Seed."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), dirt, sand, and limestone had been substituted in part for anise, which the article was represented to be.

DISPOSITION: April 29, 1947. Default decree of condemnation and destruction.

12744. Adulteration of anise seed. U. S. v. 1 Bag * * *. (F. D. C. No. 22793. Sample No. 52318-H.)

LIBEL FILED: March 28, 1947, Northern District of Iowa.

ALLEGED SHIPMENT: On or about January 17, 1947, by the Kearns & Smith Spice Company, from Chicago, Ill.

PRODUCT: 1 100-pound bag of anise seed at Sioux City, Iowa.

LABEL, IN PART: "Whole Anise."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), dirt, sand, and limestone had been substituted in part for anise, which the article was represented to be.

DISPOSITION: April 29, 1947. Default decree of condemnation and destruction.

12745. Adulteration of ground ginger. U. S. v. 3 Barrels * * *. (F. D. C. No. 23142. Sample No. 91239-H.)

LIBEL FILED: May 26, 1947, District of Connecticut.

ALLEGED SHIPMENT: On or about March 27, 1947, by R. J. Prentiss & Company, Inc., from Brooklyn, N. Y.

PRODUCT: 3 200-pound barrels of ground ginger at Hartford, Conn.

LABEL, IN PART: "Pow. Ginger."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent hair fragments and insect fragments.

DISPOSITION: June 25, 1947. Consent decree of condemnation and destruction.

12746. Adulteration of mustard, sweet pickles, and apple butter. U. S. v. The Western Food Products Co., Inc., and Newton H. Benscheidt. Pleas of guilty. Corporation and individual each fined \$300. (F. D. C. No. 22079. Sample Nos. 48654-H, 67063-H, 67361-H.)

INFORMATION FILED: July 12, 1947, District of Kansas, against the Western Food Products Co., Inc., Hutchinson, Kans., and Newton H. Benscheidt, president and manager.

ALLEGED SHIPMENT: On or about September 20 and 21 and October 5, 1946, from the State of Kansas into the States of Colorado, Missouri, and Nebraska.

LABEL, IN PART: "Rich-Nut Dusseldorf Mustard," "Maple Leaf Brand Sweet Pickles * * * Packed for Ryley-Wilson Gro. Co. Kansas City, Mo.," and "Western Maid Pure Apple Butter."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), (sweet pickles and apple butter) the products consisted in part of filthy substances by reason of the presence, in the pickles, of insects and, in the apple butter, of insects, insect fragments, and rodent hairs; and, Section 402 (a) (4), (mustard, sweet pickles, and apple butter) the products had been prepared and packed under insanitary conditions whereby they may have become contaminated with filth.

DISPOSITION: July 18, 1947. Pleas of guilty having been entered on behalf of the defendants, the corporation and individual were each fined \$300.

12747. Adulteration of mustard flour. U. S. v. 131 Barrels * * *. (F. D. C. No. 22509. Sample No. 62834-H.)

LIBEL FILED: February 19, 1947, Northern District of California.

ALLEGED SHIPMENT: On or about December 27, 1946, from Philadelphia, Pa.

PRODUCT: 131 200-pound barrels of mustard flour at San Francisco, Calif. The product had been damaged in transit. Some of the barrel heads had been broken in or smashed, and the product in these barrels was contaminated with a substance containing zinc chromate, apparently a yellow pigment.

NATURE OF CHARGE: Adulteration, Section 402 (a) (1), the article contained an added poisonous and deleterious substance, zinc chromate, which may have rendered it injurious to health.

DISPOSITION: May 2, 1947. The Luckenbach Steamship Company, Inc., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released upon payment of court costs and fees, to be brought into compliance with the law, under the supervision of the Federal Security Agency.

12748. Adulteration and misbranding of black pepper. U. S. v. 60 dozen Packages * * * (and 10 other seizure actions). (F. D. C. Nos. 21407, 21408, 21626, 21708, 21747, 21748, 21782, 21854, 22457, 22556, 23048. Sample Nos. 39854-H, 39855-H, 40116-H, 40117-H, 40150-H, 40161-H, 49918-H, 49919-H, 52686-H, 53381-H, 54594-H, 54597-H, 76303-H.)

LIBELS FILED: Between November 6, 1946, and May 23, 1947, Western District of Tennessee, Northern and Middle Districts of Georgia, Northern District of Alabama, Southern District of Indiana, and Eastern District of Missouri.

ALLEGED SHIPMENT: Between the approximate dates of August 3 and October 29, 1946, by J. J. Brodsky & Sons, from Chicago, Ill.

PRODUCT: 160 dozen 1-ounce packages, 1,425 cards, and 4 cartons of black pepper at Dyersburg, Jackson, and Huntingdon, Tenn.; Atlanta and Cuthbert, Ga.; Birmingham, Ala.; New Albany and Indianapolis, Ind.; and Sikeston, Mo. Each carton contained 72 1-ounce packages, and each display card contained 24 envelopes in $\frac{3}{4}$ -ounce and 1-ounce sizes.

LABEL, IN PART: "Ground Black Pepper * * * Midstates Products Co. Chicago, Ill.," "Damore Brand Pure Black Pepper Packed by Damore Spice Company, Chicago 24, Ill.," "Shure Good Black Pepper Packed by Sure Foods Specialty Co. Chicago, Ill.," or "Gee! Zee Finest Black Pepper Gee Zee Food Products Co. Chicago, Ill."

NATURE OF CHARGE: Atlanta lot. Adulteration, Section 402 (b) (2), a mixture of pepper and starch material had been substituted for black pepper; and, Section 402 (b) (4), starch material had been added to the article and mixed and packed with it so as to increase its bulk or weight and reduce its quality.

Remaining lots. Adulteration, Section 402 (b) (2), substances containing, variously, cottonseed hulls, soybean hulls, wheat flour, ground wheat, ground buckwheat, buckwheat hulls, soybean meal, salt, or other plant material, had been substituted in whole or in part for black pepper.

All lots. Misbranding, Section 403 (a), the label designations "Ground Black Pepper," "Pure Black Pepper," and "Black Pepper" were false and misleading.

DISPOSITION: Between December 10, 1946, and June 23, 1947. Default decrees of condemnation. 726 cards of the product were ordered delivered to charitable institutions, and the remainder of the product was ordered destroyed.

12749. Adulteration and misbranding of black pepper. U. S. v. 24 Cards * * *. (F. D. C. No. 22926. Sample No. 90778-H.)

LIBEL FILED: October 7, 1946, Eastern District of Virginia.

ALLEGED SHIPMENT: On or about November 25, 1946, by the Suburban Sales Co., from Philadelphia, Pa.

PRODUCT: 24 cards, each containing 12 $\frac{3}{4}$ -ounce bags, of black pepper at Arlington, Va.

LABEL, IN PART: "Red Star Pure Black Pepper Packed by Red Star Packing Company, Philadelphia, Pa."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), a substance consisting essentially of salt, ground buckwheat hulls, starch material, and ground pepper, had been substituted in whole or in part for pure black pepper.

Misbranding, Section 403 (a), the label designation "Pure Black Pepper" was false and misleading.

DISPOSITION: June 26, 1947. Default decree of condemnation and destruction.

12750. Misbranding of pepper. U. S. v. 5 Drums * * *. (F. D. C. No. 22685. Sample Nos. 57648-H, 57649-H.)

LIBEL FILED: March 21, 1947, District of Rhode Island.

ALLEGED SHIPMENT: On or about November 4 and 13, 1946, by the Columbus Wholesale Grocery Co., from Providence, R. I., to Hartford, Conn., and returned by the consignee to Providence, R. I., on or about December 12, 1946, and January 9, 1947.

PRODUCT: Pepper. 3 100-pound drums and 2 200-pound drums at Providence, R. I. The product was invoiced as pepper.

LABEL, IN PART: (Portion) "100 Lbs. Net." The remainder of the product was unlabeled.

NATURE OF CHARGE: Misbranding, Section 403 (b), the article was offered for sale under the name of another food; Section 403 (c), it was an imitation of another food, pepper, and its label failed to bear, in type of uniform size and prominence, the word "imitation" and, immediately thereafter, the name of the food imitated; Section 403 (e), it failed to bear a label containing the name and place of business of the manufacturer, packer, or distributor; and, Section 403 (i) (2), it was fabricated from 2 or more ingredients, and its label failed to bear the common or usual name of each ingredient. The product was an

artificially flavored mixture of salt, bran, and other ingredients, containing little, if any, pepper.

DISPOSITION: May 27, 1947. Default decree of condemnation and destruction.

12751. Adulteration of dried chili peppers. U. S. v. 31,200 Pounds * * *.
(F. D. C. No. 22392. Sample No. 40039-H.)

LIBEL FILED: January 14, 1947, Eastern District of Missouri.

ALLEGED SHIPMENT: On or about December 10, 1946, by Gillett & Achterberg, from Canutillo, Tex.

PRODUCT: 31,200 pounds of dried chili peppers in bags at St. Louis, Mo.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of moldy chili peppers.

DISPOSITION: February 25, 1947. Gillett & Achterberg, claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond, conditioned that it be brought into compliance with the law, under the supervision of the Federal Security Agency.

12752. Adulteration of red peppers. U. S. v. 106 Bags * * *. (F. D. C. No. 23959. Sample No. 6403-K.)

LIBEL FILED: November 7, 1947, Western District of New York.

ALLEGED SHIPMENT: On or about September 8, 1947, by J. D. White, from Timmons ville, S. C.

PRODUCT: 106 bags of red peppers at Rochester, N. Y., varying in weight from 58 to 116 pounds.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insect excreta and insect-eaten peppers.

DISPOSITION: February 12, 1948. Default decree of condemnation and destruction.

12753. Adulteration and misbranding of popcorn seasoning. U. S. v. St. Louis Fondant Co., a corporation, and Hugo Eisenmenger and Edward Zeisler. Pleas of nolo contendere. Fines, \$50 against corporation and \$20 against each individual. (F. D. C. No. 20952. Sample No. 6524-H.)

INFORMATION FILED: November 4, 1946, Eastern District of Missouri, against the St. Louis Fondant Co., St. Louis, Mo., and Hugo Eisenmenger and Edward Zeisler, president and secretary, respectively.

ALLEGED SHIPMENT: On or about August 17, 1945, from the State of Missouri into the State of New York.

LABEL, IN PART: "Eagle Brand."

NATURE OF CHARGE: Adulteration, Section 402 (b) (4), a substance, yellow color, had been added to mineral oil and mixed and packed with it so as to make the article appear to be an edible oil, which is better and of greater value.

Misbranding, Section 403 (a), the labeling of the article was misleading in that it failed to reveal the fact material with respect to the consequences which may result from the customary or usual use of the article for popcorn seasoning, since the article contained an oil which would interfere seriously with the assimilation of certain essential vitamins and minerals, and when used as popcorn seasoning might render the product injurious to health.

DISPOSITION: March 17, 1947. Pleas of nolo contendere having been entered by the defendants, the court imposed fines of \$50 against the corporate defendant and \$20 against each individual defendant.

12754. Adulteration and misbranding of popcorn seasoning. U. S. v. 25 Cases * * * (and 2 other seizure actions). (F. D. C. Nos. 22218, 22227, 22239. Sample Nos. 57647-H, 74003-H, 74005-H.)

LIBELS FILED: January 27, 29, and 31, 1947, District of Massachusetts.

ALLEGED SHIPMENT: On or about September 20 and 24 and October 3, 1946, by Bernau Processing Plant, from Lake City, Iowa.

PRODUCT: Popcorn seasoning, 25 cases at Cambridge, 6 cases at Blackstone, and 4 cases at Quincy, Mass. Each case contained 4 1-gallon jugs of the product.

LABEL, IN PART: "Popswell Brand Popcorn Seasoning."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), artificially flavored and colored mineral oil, having no food value, had been substituted for popcorn seasoning, a product consisting of butter or edible vegetable oil; and, Section 402 (b) (4), artificial flavoring and artificial coloring had been added to mineral oil so as to make it appear to be butter oil, which is better and of greater value.

Misbranding, Section 403 (a), the designation "Popcorn Seasoning" was false and misleading.

DISPOSITION: March 10, 1947. No claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

12755. Adulteration and misbranding of iodized salt. U. S. v. 350 Cases * * *.
(F. D. C. No. 23092. Sample No. 41052-H.)

LIBEL FILED: July 2, 1947, Western District of Tennessee.

ALLEGED SHIPMENT: On or about January 31, 1947, by the Jefferson Island Salt Mining Co., from Jefferson Island, La.

PRODUCT: 350 cases, each containing 24 1-pound, 10-ounce packages, of iodized salt at Memphis, Tenn.

LABEL, IN PART: "Jefferson Island Hexagon Iodized Salt * * * Evaporated .01% Potassium Iodide."

NATURE OF CHARGE: Adulteration, Section 402 (b) (1), a valuable constituent, potassium iodide, had been in part omitted from the article.

Misbranding, Section 403 (a), the label statement ".01% Potassium Iodide" was false and misleading.

DISPOSITION: August 11, 1947. Default decree of condemnation. The product was ordered delivered to charitable institutions.

12756. Adulteration and misbranding of iodized salt. U. S. v. 203 Cases * * *.
(F. D. C. No. 23346. Sample No. 76318-H.)

LIBEL FILED: July 7, 1947, Northern District of Alabama.

ALLEGED SHIPMENT: On or about June 9, 1947, by the Jefferson Island Salt Mining Co., from Jefferson Island, La.

PRODUCT: 203 cases, each containing 24 1-pound, 10-ounce packages, of iodized salt at Birmingham, Ala.

LABEL, IN PART: "Jefferson Island Hexagon Iodized Salt 1 Lb. 10 Oz. Net Weight Evaporated .01% Potassium Iodide."

NATURE OF CHARGE: Adulteration, Section 402 (b) (1), a valuable constituent, potassium iodide, had been in part omitted from the article.

Misbranding, Section 403 (a), the label statement ".01% Potassium Iodide" was false and misleading.

DISPOSITION: August 12, 1947. Default decree of condemnation. The product was ordered delivered to a charitable institution.

12757. Adulteration of mushroom sauce. U. S. v. 124 Cases * * *. (F. D. C. No. 22511. Sample No. 62607-H.)

LIBEL FILED: February 10, 1947, Northern District of California.

ALLEGED SHIPMENT: On or about April 12, 1946, by the Oregon Mushroom Co., from Milwaukie, Oreg.

PRODUCT: 124 cases, each containing 47 7½-ounce cans, of mushroom sauce at Sacramento, Calif.

LABEL, IN PART: "Conan's Happy Valley Mushroom Sauce."

NATURE OF CHARGE: Adulteration, Section 402 (b) (1), a valuable constituent, mushrooms, had been in whole or in part omitted from the product. (The product contained an insignificant amount of mushrooms, not sufficient to characterize the taste.)

DISPOSITION: June 11, 1947. Default decree of condemnation and destruction.

12758. Adulteration of soy sauce. U. S. v. 10 Cases * * * (and 1 other seizure action). (F. D. C. Nos. 23400, 23631. Sample Nos. 25387-H, 85710-H.)

LIBELS FILED: August 11, 1947, Northern District of Texas and District of Maryland.

ALLEGED SHIPMENT: On or about June 11 and 13, 1947, by the Loma Linda Food Co., from Arlington and Los Angeles, Calif.

PRODUCT: 10 cases and 9 cases, each containing 24 bottles, of soy sauce at Dallas, Tex., and Hyattsville, Md., respectively. The product contained arsenic, expressed as arsenic trioxide, in amounts ranging from 17 to 1,150 parts per million.

LABEL, IN PART: "Soyalinda Soy Sauce."

NATURE OF CHARGE: Adulteration, Section 402 (a) (2), the product contained an added poisonous and deleterious substance, arsenic, which is unsafe within the meaning of the law, since it is a substance not required in the production of the food and could have been avoided by good manufacturing practice.

DISPOSITION: September 12 and 23, 1947. Default decrees of condemnation and destruction.

12759. Adulteration of soy sauce. U. S. v. 69 Cases * * *. (F. D. C. No. 23404. Sample No. 62851-H.)

LIBEL FILED: August 11, 1947, Northern District of California.

ALLEGED SHIPMENT: On or about September 6, 1946, by the Oimatsu Co., from Honolulu, Hawaii.

PRODUCT: 69 cases, each containing 4 1-gallon jugs, of soy sauce at San Francisco, Calif.

LABEL, IN PART: "Queen Shoyu Finest Soy Sauce Manufactured by King Shoyu Factory, Honolulu, T. H."

NATURE OF CHARGE: Adulteration, Section 402 (a) (2), the product contained an added poisonous and deleterious substance, arsenic, which is unsafe within the meaning of the law, since it is a substance not required in the production of the food and could have been avoided by good manufacturing practice.

DISPOSITION: November 28, 1947. Default decree of condemnation and destruction.

12760. Adulteration of soy sauce. U. S. v. 6 Cases, etc. (F. D. C. No. 23411. Sample Nos. 71423-H, 71424-H.)

LIBEL FILED: August 13, 1947, Southern District of California.

ALLEGED SHIPMENT: On or about April 25, 1946, by the N. B. C. Food Company, from Swink, Colo.

PRODUCT: 6 cases, each containing 12 $\frac{4}{5}$ -quart bottles, and 450 cases, each containing 4 1-gallon bottles, of soy sauce at Los Angeles, Calif.

LABEL, IN PART: "Best Soy Sauce," or "N. B. C. Botan Brand Soy Sauce."

NATURE OF CHARGE: Adulteration, Section 402 (a) (2), the product contained an added poisonous and deleterious substance, monochloroacetic acid, which is unsafe within the meaning of the law, since it is a substance not required in the production of the food and could have been avoided by good manufacturing practice.

DISPOSITION: October 23, 1947. Default decree of condemnation and destruction.

12761. Adulteration of soy sauce. U. S. v. 19 Cases * * *. (F. D. C. No. 23376. Sample No. 62670-H.)

LIBEL FILED: July 25, 1947, Northern District of California.

ALLEGED SHIPMENT: On or about April 25, 1946, by the N. B. C. Insecticide Co., from Swink, Colo.

PRODUCT: 19 cases, each containing 4 1-gallon jugs, of soy sauce at Sacramento, Calif.

LABEL, IN PART: "Soy Sauce N. B. C. Botan Brand."

NATURE OF CHARGE: Adulteration, Section 402 (a) (2), the article contained an added poisonous and deleterious substance, monochloroacetic acid, which is unsafe within the meaning of the law, since it is a substance not required in the

production of the article and could have been avoided by good manufacturing practice.

DISPOSITION: August 22, 1947. Default decree of condemnation and destruction.

12762. Adulteration of soy sauce. U. S. v. 26 Cases * * *. (F. D. C. No. 23384. Sample No. 62671-H.)

LIBEL FILED: July 30, 1947, Northern District of California.

ALLEGED SHIPMENT: On or about June 5, 1947, by the N. B. C. Insecticide Co., from Pueblo, Colo.

PRODUCT: 26 cases, each containing 4 1-gallon jugs, of soy sauce at Sacramento, Calif. Examination showed that the product contained 132 parts per million of monochloroacetic acid.

LABEL, IN PART: "Homare Brand Shoyu Soy Sauce."

NATURE OF CHARGE: Adulteration, Section 402 (a) (2), the article contained an added poisonous and deleterious substance, monochloroacetic acid, which is unsafe within the meaning of the law, since it is a substance not required in the production of the article and could have been avoided by good manufacturing practice.

DISPOSITION: August 22, 1947. Default decree of condemnation and destruction.

12763. Adulteration of soy sauce. U. S. v. 9 Cases * * *. (F. D. C. No. 23417. Sample No. 62699-H.)

LIBEL FILED: August 18, 1947, Northern District of California.

ALLEGED SHIPMENT: On or about July 9, 1947, by the Rocky Mountain Pickle Co., from Denver, Colo.

PRODUCT: 9 cases, each containing 24 8-ounce jars, of soy sauce at Walnut Grove, Calif. Analysis showed that the product contained approximately 10 parts per million of arsenic.

LABEL, IN PART: "Rocky Brand Shio Konbu Ingredients: Seaweed, Soy Sauce, Salt, and Corn Sugar Syrup."

NATURE OF CHARGE: Adulteration, Section 402 (a) (2), the product contained an added poisonous and deleterious substance, arsenic.

DISPOSITION: September 18, 1947. Default decree of condemnation and destruction.

12764. Misbranding of soy sauce. U. S. v. 5 Cases * * *. (F. D. C. No. 23753. Sample No. 89157-H.)

LIBEL FILED: September 23, 1947, District of Colorado.

ALLEGED SHIPMENT: On or about August 8, 1947, by the Showa Shoyu Brewing Corp., from Glendale, Ariz.

PRODUCT: 5 cases, each containing 24 cans, of soy sauce at Denver Colo.

LABEL, IN PART: (Cans) "Net contents 20 Oz. Liquid Marusho Shoyu Contents Selected Soy Beans, Water, Purest of Salt and Wheat."

NATURE OF CHARGE: Misbranding, Section 403 (e) (2), the article failed to bear a label containing an accurate statement of the quantity of the contents. (The article was short-volume.)

DISPOSITION: November 13, 1947. Default decree of condemnation. The product was ordered delivered to a charitable institution.

12765. Adulteration of Miso (Japanese condiment). U. S. v. 21 Pails, etc. (F. D. C. No. 24421. Sample Nos. 29138-K, 29139-K.)

LIBEL FILED: January 23, 1948, District of Colorado.

ALLEGED SHIPMENT: On or about December 24, 1947, by Fujimoto & Co., from Salt Lake City, Utah.

PRODUCT: 21 pails, each containing 10 pounds, and 32 cartons, each containing 5 pounds, of Miso at Denver, Colo.

LABEL, IN PART: "Miso Prepared with Rice, Soy Beans and Salt $\frac{1}{10}$ of 1% Benzoate of Soda."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insect fragments and rodent hair fragments; and, Section 402 (a) (4), it had been pre-

pared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: March 30, 1948. Fujimoto & Co. having executed an acceptance of service and authorization for the taking of a final decree, judgment of condemnation was entered and the product was ordered destroyed.

12766. Misbranding of Makamix (sirup flavor). U. S. v. 40 Cartons * * *.
(F. D. C. No. 23362. Sample No. 82542-H.)

LIBEL FILED: July 16, 1947, Western District of Washington. On September 24, 1947, the case was transferred to the Northern District of Indiana.

ALLEGED SHIPMENT: On or about November 3, 1946, by the Jel Sert Co., from Chicago, Ill.

PRODUCT: 40 cartons, each containing 12 5-ounce packages, of sirup flavor at Seattle, Wash.

LABEL, IN PART: "Makamix."

NATURE OF CHARGE: Misbranding, Section 403 (a), the following statements in the labeling were misleading: (Carton) "Make your own syrup with Makamix 5 packages makes 5 pints of delicious syrup"; (package) "Makamix for making delicious pancake and waffle syrup composed of dextrose"; and (pamphlet) "Makes 5 pints of delicious pancake or waffle syrup." These statements represented and suggested that the article would make table sirup when mixed with water, whereas the article would make a slightly sweetened artificially colored and flavored water solution of dextrose. Further misbranding, Section 403 (k), the article contained artificial flavoring and failed to bear labeling stating that fact.

DISPOSITION: December 20, 1947. The sole intervener having consented to the entry of the decree, judgment of condemnation was entered and the product was ordered delivered to a charitable institution, after being marked "Condemned as misbranded and not to be sold."

VITAMIN, MINERAL, AND OTHER PRODUCTS OF SPECIAL DIETARY SIGNIFICANCE*

12767. Adulteration of dietary aids. U. S. v. Frank W. Bower (Bower Family Laboratories). Plea of nolo contendere. Fine, \$100. (F. D. C. No. 20192. Sample Nos. 27852-H, 27853-H.)

INFORMATION FILED: November 20, 1946, Southern District of California, against Frank W. Bower, trading as Bower Family Laboratories, Sierra Madre, Calif.

ALLEGED SHIPMENT: On or about June 2, 1945, from the State of California into the State of Washington.

LABEL, IN PART: "Dex-Tro-Bese No. 11 A Dietary Aid," or "Dex-Tro-Special No. 20 A Dietary Aid."

NATURE OF CHARGE: Adulteration, Section 402 (b) (1), valuable constituents of the articles, calcium, phosphorus, and iron, had been in part omitted and abstracted from them. Four heaping teaspoonfuls of the articles were represented to contain 985 milligrams of calcium, 750 milligrams of phosphorus, and 17.50 milligrams of iron, whereas 4 heaping teaspoonfuls of the articles actually contained less calcium, phosphorus, and iron than represented.

DISPOSITION: December 23, 1946. The defendant having entered a plea of nolo contendere, the court imposed a fine of \$50 on each count, a total fine of \$100.

12768. Adulteration and misbranding of brewer's yeast tablets and Bex. U. S. v. William T. Thompson Company, a Corporation, and William T. Thompson. Pleas of nolo contendere. Corporation fined \$4; William T. Thompson given suspended sentence and 5 years' probation, conditioned that he pay a fine of \$1,000 and donate a certain sum to charity. (F. D. C. No. 21528. Sample Nos. 30659-H, 30686-H.)

INFORMATION FILED: February 6, 1947, Southern District of California, against the William T. Thompson Co., a corporation, Los Angeles, Calif., and William T. Thompson, president.

ALLEGED SHIPMENT: January 16 and May 8, 1946, from the State of California into the State of Arizona.

*See also Nos. 12649, 12650.

LABEL, IN PART: "Thompson's Standardized Vitamins Brewers' Yeast Tablets," or "Thompson's Bex A concentrated protein food rich in Vitamin B-Complex."

NATURE OF CHARGE: Thompson's Brewers' Yeast Tablets. Adulteration, Section 402 (b) (1), a valuable constituent of the article, niacin, had been in whole or in part omitted and abstracted from it. One tablet of the article was represented to provide 250 micrograms of niacin, whereas one tablet would provide a smaller amount. Misbranding, Section 403 (a), the label statements "These tablets conform to the following Vitamin potencies * * * niacin (a B-Complex Vitamin) 250 Micrograms" were false and misleading.

Thompson's Bex. Adulteration, Section 402 (b) (1), valuable constituents of the article, vitamin B₁ and niacin, had been in whole or in part omitted and abstracted from it, since 5 grams of the article were represented to provide 250 U. S. P. units of vitamin B₁ and 3,500 micrograms of niacin. Actually, 5 grams of the article would provide smaller amounts of vitamin B₁ and niacin. Misbranding, Section 403 (a), the label statements "Each teaspoonful of Bex (5 grams) contains: 250 U. S. P. Units, Vitamin B₁; 3,500 Micrograms, Niacin" were false and misleading.

DISPOSITION: March 17, 1947. Pleas of nolo contendere having been entered, the court imposed a fine of \$4 against the corporation. The sentence of William T. Thompson was suspended, and he was placed on probation for a period of 5 years, conditioned that he pay a fine of \$1,000 and donate \$10 per month to charity during the 5-year period.

12769. Adulteration and misbranding of multiple vitamin capsules. U. S. v. Vitex Vitamin Corporation, Ben L. Grossberg, and Norman H. Less. Pleas of guilty. Fines of \$200 each against corporation and individual defendants. (F. D. C. No. 20201. Sample No. 13648-H.)

INFORMATION FILED: November 20, 1946, Northern District of Ohio, against the Vitex Vitamin Corporation, formerly trading as the Rex Vitamin Corporation, Cleveland, Ohio, and Ben L. Grossberg, president, and Norman H. Less, vice president, of the corporation.

ALLEGED SHIPMENT: February 8, 1945, from the State of Ohio into the State of Tennessee.

LABEL, IN PART: "Optimals Special Formula Multiple Vitamin Capsules."

NATURE OF CHARGE: Adulteration, Section 402 (b) (1), valuable constituents of the article, vitamin B₁, vitamin B₂ (G) (riboflavin), and vitamin C, had been in part omitted and abstracted from the article.

Misbranding, Section 403 (a), the label statements, "Each one of these special formula capsules contains Vitamin B₁ (Thiamin Hydrochloride) 10 Mg. (3,330 U. S. P. Units) 10 times daily requirement Vitamin B₂ (G) (Riboflavin) 4 Mg. (4,000 Gamma) 2 times daily requirement Vitamin C (Ascorbic Acid) 100 Mg. (2,000 U. S. P. Units) 3 1/3 times daily requirement," were false and misleading, since the article contained less than the declared amounts and would supply smaller proportions of the minimum daily requirements for these vitamins than declared.

Further misbranding, Section 403 (a), the label statements, "Official minimum daily adult requirement (Federal Food and Drug Administration) Vitamin B₆ (Pyridoxine Hydrochloride) Not as yet established * * * Calcium Pantothenate Not as yet established * * * Vitamin E (Wheat Germ Oil) Not as yet established," are misleading. These statements represented and suggested and created in the mind of the reader the impression that the need for these vitamins in human nutrition had been generally recognized, although the amounts required daily had not been established. The need for vitamin B₆ (pyridoxine hydrochloride), calcium pantothenate, and vitamin E (wheat germ oil) in human nutrition has not been generally recognized.

Further misbranding, Section 403 (f), certain words, statements, and information required by law to appear on the label of the article were not prominently placed thereon with such conspicuousness as to render them likely to be read and understood by the ordinary individual under customary conditions of purchase and use. The statements with regard to the vitamins contained in the article, which are required by regulations to appear on the label, appeared on the bottom of the box.

DISPOSITION: February 17, 1947. Pleas of guilty having been entered, the court imposed fines of \$200 each against the corporation and the individual defendants, a total fine of \$600.

12770. Adulteration of vitamin preparations. U. S. v. Victor M. Hermelin (Keith-Victor Pharmacal Co.). Plea of nolo contendere. Fine, \$200. (F. D. C. No. 22078. Sample Nos. 5452-H, 19327-H, 19330-H.)

INFORMATION FILED: On or about June 10, 1947, Eastern District of Missouri, against Victor M. Hermelin, a member of the partnership of the Keith-Victor Pharmacal Co., St. Louis, Mo.

ALLEGED SHIPMENT: Between the approximate dates of January 7 and February 15, 1946, from the State of Missouri into the States of Iowa and Pennsylvania.

PRODUCT: A portion of the products was invoiced as "Sugar Coated Brown A-B-D-G Spheroid Gelatin Capsules," and the remainder of the products was labeled "Sugar Coated Orange Round Nine Vitamin Spheroids."

NATURE OF CHARGE: Sugar Coated Brown Four Vitamin Spheroids. Adulteration, Section 402 (b) (1), valuable constituents, vitamin B₁ and vitamin D, had been in part omitted and abstracted. The article was represented to contain 1 milligram (equivalent to 333 U. S. P. units) of vitamin B₁ and 500 U. S. P. units of vitamin D per capsule, but contained smaller amounts of vitamin B₁ and vitamin D.

Sugar Coated Orange Round Nine Vitamin Spheroids. Adulteration, Section 402 (b) (1), a valuable constituent, vitamin D, had been in part omitted and abstracted. The article was represented to contain 1,000 U. S. P. units of vitamin D per spheroid, but contained a smaller amount.

DISPOSITION: October 10, 1947. A plea of nolo contendere having been entered, the court imposed a fine of \$200.

12771. Adulteration and misbranding of Hydil Tablets. U. S. v. 59 Bottles * * *. (F. D. C. No. 22758. Sample No. 66152-H.)

LIBEL FILED: April 9, 1947, District of New Jersey.

ALLEGED SHIPMENT: On or about October 11, 1946, by Lems Laboratories, Inc., from Philadelphia, Pa.

PRODUCT: 31 \$3-size bottles and 28 \$1.50-size bottles of Hydil Tablets at Camden, N. J. Examination showed that the article contained less than the declared amount of niacinamide.

NATURE OF CHARGE: Adulteration, Section 402 (b) (1), a valuable constituent, niacinamide, had been in whole or in part omitted from the article.

Misbranding, Section 403 (a), the label statement "Contains in each tablet * * * niacinamide 5 milligrams" was false and misleading.

DISPOSITION: May 16, 1947. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

12772. Adulteration and misbranding of vitamin tablets. U. S. v. 3 Bottles, etc. (F. D. C. No. 20233. Sample No. 5452-H.)

LIBEL FILED: June 7, 1946, Eastern District of Pennsylvania.

ALLEGED SHIPMENT: On or about February 15, 1946, by the Keith-Victor Pharmacal Co., from St. Louis, Mo. The product was shipped in bulk and relabeled by the consignee.

PRODUCT: 62 bottles containing a total of 29,800 vitamin tablets at Philadelphia, Pa. These tablets contained less than 1,000 units of vitamin D.

LABEL, IN PART: (When shipped, drum) "Sugar Coated Orange Round Nine Vitamin Spheroids Each Spheroid Contains: Vitamins * * * D Activated Ergosterol 1,000 USP Units."

NATURE OF CHARGE: Adulteration, Section 402 (b) (1), a valuable constituent, vitamin D, had been in part omitted from the article.

Misbranding, Section 403 (a), the label statement "Each Spheroid Contains: Vitamins * * * D Activated Ergosterol 1,000 USP Units" was false and misleading.

DISPOSITION: September 4, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

12773. Adulteration and misbranding of multi-vitamin capsules. U. S. v. 570 Bottles, etc. (F. D. C. No. 20063. Sample Nos. 19327-H, 19330-H.)

LIBEL FILED: June 5, 1946, Southern District of Iowa.

ALLEGED SHIPMENT: On or about December 18, 1945, and February 7, 1946, by the Keith-Victor Pharmacal Co., from St. Louis, Mo.

PRODUCT: 570 100-capsule bottles and 6 1,000-capsule bottles of multi-vitamin capsules at Des Moines, Iowa.

LABEL, IN PART: "A-B-D-G Capsules A Multi-Vitamin Dietary Supplement."

NATURE OF CHARGE: Adulteration, Section 402 (b) (1), valuable constituents, vitamins B₁ and D, had been in part omitted from the article.

Misbranding, Section 403 (a), the label statement; "Contents (Per Capsule) Vitamins * * * B₁—Thiamin Chloride 333 USP Units Per Capsule 100% Minimum Daily Adult Requirement D-Activated Ergosterol 500 USP Units Per Capsule 125% Minimum Daily Adult Requirement," was false and misleading. The product contained less than the stated amounts of vitamin B₁ and D and would not provide the stated proportions of the minimum daily requirements for such vitamins.

DISPOSITION: August 29, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

12774. Adulteration and misbranding of Cereal Lactic Improved Vitamin. U. S. v. 33 Bottles * * *. (F. D. C. No. 20054. Sample No. 52718-H.)

LIBEL FILED: June 19, 1946, Northern District of Ohio.

ALLEGED SHIPMENT: On or about January 4, 1946, by the Cereal Lactic Co., Inc., from Woodward, Iowa.

PRODUCT: 33 8-ounce bottles of Cereal Lactic Improved Vitamin at Cleveland, Ohio.

LABEL, IN PART: "Cereal Lactic Improved Vitamin * * * Average or Recommended Daily Dosage of 4 Level Teaspoonfuls (0.4 Oz.) Contain the Following: Vitamin B₂ (G), 150 Sherman-Bourquin Units * * * 4 level teaspoonfuls (0.4 Oz.) supplies the following as compared to the adult minimum daily requirements: Vitamin B₂ (G), 0.2 times."

NATURE OF CHARGE: Adulteration, Section 402 (b) (1), a valuable constituent, vitamin B₂ (G), had been in part omitted from the article.

Misbranding, Section 403 (a), the label statements were false and misleading, since the product contained less than the stated amount of vitamin B₂ (G) and would not provide the stated proportion of the minimum daily requirement for the vitamin.

DISPOSITION: July 9, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

12775. Adulteration of Cal-Par (dietary food). U. S. v. 2 Dozen Packages, etc. (and 3 other seizure actions). (F. D. C. Nos. 21780, 21781, 21822, 21887. Sample Nos. 43650-H, 43651-H, 46276-H, 65262-H, 65263-H.)

LIBELS FILED: November 26 and December 4 and 6, 1946, Southern and Northern Districts of California and Eastern District of Pennsylvania.

ALLEGED SHIPMENT: Between the approximate dates of July 25 and October 16, 1946, by Hood Products, from New York, N. Y.

PRODUCT: 26¼ dozen 1-pound packages, 2 dozen 7-ounce packages, and 10 cartons, each carton containing 36 7-ounce packages, of Cal-Par at Los Angeles and Sacramento, Calif., and Philadelphia, Pa.

LABEL, IN PART: "Cal-Par * * * prepared by Cal-Par Corporation, New York, N. Y."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the articles consisted in whole or in part of filthy substances by reason of the presence of insects and insect fragments; and, Section 402 (a) (4), they had been prepared under insanitary conditions whereby they may have become contaminated with filth.

DISPOSITION: December 24, 1946, and January 17 and 18 and March 28, 1947. Default decrees of condemnation and destruction.

12776. Adulteration and misbranding of Derbetain Broth Powder. U. S. v. 35 Cases * * *. (F. D. C. No. 20066. Sample No. 37481-H.)

LIBEL FILED: June 12, 1946, Western District of Washington.

ALLEGED SHIPMENT: On or about February 17 and July 26 and 27, 1945, by Heller Runnels Laboratories, from Los Angeles, Calif.

PRODUCT: 35 cases, each containing 24 6-ounce cans, of Derbetain Broth Powder at Seattle, Wash.

LABEL, IN PART: "Derbetain Tomato Flavor Broth Powder."

NATURE OF CHARGE: Adulteration, Section 402 (b) (1), a valuable constituent, vitamin B₁, had been in part omitted from the article.

Misbranding, Section 403 (a), the label statement "Each rounded teaspoonful (.3 oz.) supplies 50% of the daily adult minimum requirements of vitamin B₁" was false and misleading. The article would not provide the stated proportion of the minimum daily requirement for vitamin B₁.

DISPOSITION: August 30, 1946. Dermetics, Inc., Seattle, Wash., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond for the purpose of relabeling, under the supervision of the Food and Drug Administration.

12777. Misbranding of Major B Complex Tablets. U. S. v. 80 Dozen Cartons, etc. (F. D. C. No. 22932. Sample Nos. 74516-H to 74518-H, incl.)

LIBEL FILED: April 15, 1947, District of New Hampshire.

ALLEGED SHIPMENT: On or about February 16 and March 16, 1943, and April 1, 1944, by Major Vitamins, Inc., from New York, N. Y.

PRODUCT: Major B Complex Tablets. 80 dozen cartons, each containing 24 tablets; 47 so-called "deals," each consisting of 6 100-tablet bottles; 6 cartons of 48 tablets each and 6 cartons of 24 tablets each; and 44 dozen cartons, each containing 1 bottle of 100 tablets, at Keene, N. H.

LABEL, IN PART: "Major B Brand Natural Vitamin B Complex with added Thiamine."

NATURE OF CHARGE: Misbranding, Section 403 (a), certain statements and designs in the labeling of the article were false and misleading.

The article was alleged also to be misbranded under the provisions of the law applicable to drugs, as reported in notices of judgment on drugs and devices, No. 2225, in which is set forth the nature of the false and misleading statements referred to above.

DISPOSITION: August 19, 1947. Default decree of condemnation and destruction.

12778. Misbranding of Trymm (dietary supplement). U. S. v. 55 Cases * * *, and a number of leaflets. (F. D. C. No. 22167. Sample No. 69871-H.)

LIBEL FILED: January 9, 1947, Eastern District of Michigan.

ALLEGED SHIPMENT: On or about October 22 and November 8, 1946, by Barjay Products, Inc., from Toledo, Ohio.

PRODUCT: 41 cases, each containing 24 125-tablet bottles, and 14 cases, each containing 12 125-tablet bottles, of Trymm at Detroit, Mich., and a number of leaflets entitled "Reduce." Examination showed that the article contained approximately the amounts of calcium, phosphorus, and iron declared on the label, but no vitamin A or C. These two vitamins are essential to normal metabolism in man.

LABEL, IN PART: (Bottle) "Trymm A supplement to the Diet Each tablet contains Vitamin B-1 (Thiamin Chloride) 0.333 mgm., Vitamin B-2 (Riboflavin) 0.666 mgm., Vitamin D (Irradiated Yeast) 133.33 USP Units, Niacinamide 1.67 mgm., Calcium (Calcium Pyrophosphate) 325.00 mgm., Phosphorus (Calcium Pyrophosphate) 250.00 mgm., Iron (Iron Pyrophosphate) 3.33 mgm."

NATURE OF CHARGE: Misbranding, Section 403 (a), certain statements concerning the article in the leaflets were false and misleading, since they represented and suggested that the article would be effective to cause loss of body weight, to prevent hunger, to insure health, and to furnish the average adult with the minimum daily requirements for vitamins and minerals, whereas the article would not be effective for such purposes.

DISPOSITION: March 14, 1947. Barjay Products, Inc., having admitted the allegations of the libel, judgment of condemnation was entered and the product was

ordered released under bond to be brought into compliance with the law, under the supervision of the Federal Security Agency.

12779. Misbranding of L'Vito Peptrons. U. S. v. 357 Bottles * * *. (F. D. C. No. 23202. Sample No. 68396-H.)

LIBEL FILED: June 19, 1947, Western District of Oklahoma.

ALLEGED SHIPMENT: On or about February 25, 1947, by Oxford Products, Inc., from Cleveland, Ohio.

PRODUCT: 357 75-tablet bottles of L'Vito Peptrons at Oklahoma City, Okla. Examination showed that the product contained approximately 3.8 milligrams of iron per tablet.

LABEL, IN PART: "L'Vito Peptrons 75 Tablets Contents: Iron Peptonized Haemoglobin Reduced Iron Natural Vitamin B Complex from Yeast Calcium Pantothenate Niacin Dehydrated Whole Yeast And Added Vitamin B₁ (Thiamin Chloride) B₂, B₆ * * * **DIRECTIONS** Adults: Take one or two tablets three or four times a day one hour before meals and at bed-time * * * A General Tonic supplying a supplementary source of Vitamin B₁ and Peptonized Haemoglobin Reduced Iron."

NATURE OF CHARGE: Misbranding, Section 403 (j), the article purported to be a food for special dietary uses by reason of its calcium pantothenate, niacin, vitamins B₁, B₂, and B₆, and iron content; its label failed to bear, as required by the regulations, a statement of the proportion of the minimum daily requirements of vitamins B₁, B₂, and iron, and the amounts of vitamin B₆, calcium pantothenate, and niacin supplied by the article when consumed in a specified quantity during a period of 1 day; and its label failed also to bear, as required by regulations, the statement "The need for vitamin B₆ and calcium pantothenate in human nutrition has not been established."

The article was alleged also to be misbranded under the provisions of the law applicable to drugs, as reported in notices of judgment on drugs and devices, No. 2226.

DISPOSITION: July 21, 1947. Default decree of condemnation and destruction.

12780. Misbranding of Nova Kelp tablets. U. S. v. 48 Bottles * * *. (F. D. C. No. 23460. Sample No. 39024-H.)

LIBEL FILED: June 27, 1947, Eastern District of Michigan.

ALLEGED SHIPMENT: Between the approximate dates of April 16, 1945, and March 18, 1947, by the Johnstone Drug Sales Corp., from Rochester, N. Y.

PRODUCT: 11 150-tablet bottles, 32 300-tablet bottles, and 5 750-tablet bottles of Nova Kelp at Detroit, Mich. Examination showed that the product consisted of dried seaweed containing, per tablet, 1.19 milligrams of iodine, 2.91 milligrams of iron, 5.66 milligrams of calcium, 0.009 milligram of copper, 1.07 milligrams of phosphorus, and lesser quantities of other elements in chemical combination.

LABEL, IN PART: "Nova Kelp From Nova Scotia A Deep-Sea Edible Plant With No Added Drugs or Chemicals."

NATURE OF CHARGE: Misbranding, Section 403 (a), the label statement "Dietary Supplement Rich in * * * Calcium, Copper, Sodium, Magnesium, Potassium, Phosphorus" was false and misleading, since the article was not a rich dietary supplement of such minerals. Further misbranding, Section 403 (j), the article purported to be, and was represented as, a food for special dietary uses by reason of its iodine, iron, calcium, copper, sodium, magnesium, potassium, and phosphorus content; and its label failed to bear, as required by the regulations, a statement of the proportion of the minimum daily requirements of calcium, phosphorus, iodine, and iron, and the amounts of copper, sodium, magnesium, and potassium supplied by the article when consumed in a specified quantity during a period of 1 day.

DISPOSITION: October 10, 1947. Default decree of condemnation and destruction.

12781. Misbranding of saccharin tablets. U. S. v. 338 Dozen Envelopes of Saccharin Tablets. Tried to the court. Verdict for the Government. Judgment of condemnation. Product ordered delivered to a charitable institution. (F. D. C. No. 18353. Sample No. 495-H.)

LIBEL FILED: November 13, 1945, Southern District of Georgia.

ALLEGED SHIPMENT: On or about September 13, 1945, by the Cumberland Manufacturing Co., from Nashville, Tenn.

PRODUCT: 338 dozen envelopes of saccharin tablets at Augusta, Ga. Examination disclosed that the number of tablets in the envelopes varied from 19 to 40.

LABEL, IN PART: "30 Tablets $\frac{1}{2}$ Grain Dr. Lane's Saccharin Soluble For use when sugar is forbidden."

NATURE OF CHARGE: Misbranding, Section 403 (e) (2), the product failed to bear a label containing an accurate statement of the quantity of the contents, since the label statement "30 Tablets" was inaccurate. Further misbranding, Section 403 (j), the product purported to be, and was represented as, a food for special dietary uses by man by reason of the presence of saccharin, a constituent which is not utilized in normal metabolism; and its label failed to bear such information concerning its dietary properties as has been prescribed by regulations in order to fully inform purchasers as to its value for such uses, since its label failed to bear, as required by the regulations, the statement "Contains—saccharin (or saccharin salt, as the case may be), a nonnutritive artificial sweetener which should be used only by persons who must restrict their intake of ordinary sweets," the blank to be filled in with the percent by weight of saccharin or saccharin salt in such food.

DISPOSITION: April 30, 1946. The Cumberland Manufacturing Co., claimant, having filed an answer denying that the saccharin was a food, the case was submitted to the court without a jury, by written agreement, in which agreement it was stipulated that the sole question to be decided by the court was whether or not the saccharin was a food within the meaning of the Federal Food, Drug, and Cosmetic Act. The court held that the product was a food, and a judgment of condemnation was entered ordering that the product be delivered to a charitable institution.

12782. Misbranding of saccharin tablets. U. S. v. 174 Cards * * *. (F. D. C. No. 22244. Sample No. 72941-H.)

LIBEL FILED: February 4, 1947, District of Kentucky.

ALLEGED SHIPMENT: On or about January 4, 1947, by the National Specialty Company, from Nashville, Tenn.

PRODUCT: 174 cards, each containing 12 envelopes, of saccharin tablets at Louisville, Ky. Analysis showed that the product contained an average of 114 percent of the labeled amount of soluble saccharin per tablet and that the average number of tablets in an envelope was 31.

LABEL, IN PART: (Cards) "Nasco Brand Saccharin Tablets 35's One Quarter Grain"; (envelopes) "Nasco Brand Saccharin Tablets $\frac{1}{4}$ Grain Soluble."

NATURE OF CHARGE: Misbranding, Section 403 (e) (2), the article failed to bear a label containing an accurate statement of the quantity of the contents, since the envelopes bore no statement of the quantity of the contents and the statement on the cards "35's" was inaccurate. Further misbranding, Section 403 (j), the article purported to be, and was represented as, a food for special dietary uses by man by reason of the presence of saccharin, a constituent which is not utilized in normal metabolism; its label failed to bear such information concerning its dietary properties as is prescribed by regulations as necessary; and its label failed to bear the statement "Contains—saccharin (or saccharin salt, as the case may be), a nonnutritive artificial sweetener which should be used only by persons who must restrict their intake of ordinary sweets," the blank to be filled in with the percent by weight of saccharin or saccharin salt contained in the article.

The article was alleged also to be adulterated under the provisions of the law applicable to drugs, as reported in notices of judgment on drugs and devices, No. 2109.

DISPOSITION: March 14, 1947. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

12783. Misbranding of saccharin tablets. U. S. v. 84 Packages * * *. (F. D. C. No. 22113. Sample No. 54916-H.)

LIBEL FILED: On or about December 26, 1946, Northern District of Georgia.

ALLEGED SHIPMENT: On or about October 9, 1946, by the Anderson Specialty Co. (Economy Drug Co.), from Anderson, S. C.

PRODUCT: 84 100-tablet packages of saccharin at Atlanta, Ga. Examination showed that the number of tablets in the packages varied from 77 to 101.

LABEL, IN PART: "1-4 Gr. Saccharin Tablets * * * Approximately 100 Packed By Economy Drug Co. Anderson, S. C."

NATURE OF CHARGE: Misbranding, Section 403 (e) (2), the article failed to bear a label containing an accurate statement of the quantity of the contents. Further misbranding, Section 403 (j), the article purported to be, and was represented as, a food for special dietary uses by man by reason of the presence of saccharin, a constituent which is not utilized in normal metabolism; its label failed to bear such information concerning its dietary properties as necessary fully to inform purchasers as to its value for such uses; and its label failed to bear, as required by the regulations, the statement "Contains—saccharin (or saccharin salt, as the case may be), a nonnutritive artificial sweetener which should be used only by persons who must restrict their intake of ordinary sweets," the blank to be filled in with the percent by weight of saccharin or saccharin salt in such food.

DISPOSITION: February 21, 1947. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

12784. Misbranding of Choc-O-Lac. U. S. v. 47 Cases * * *. (F. D. C. No. 20268. Sample No. 63413-H.)

LABEL FILED: June 17, 1946, District of New Jersey.

ALLEGED SHIPMENT: On or about May 15, 1946, by the Blumoon Food Products, Inc., from Brooklyn, N. Y.

PRODUCT: 47 cases, each containing 24 20-ounce jars, of Choc-O-Lac at Newark, N. J. Examination showed that the article consisted essentially of sugar, water, cocoa, and defatted milk solids.

LABEL, IN PART: "Blumas Choc-O-Lac Best-Yet The Health Builder Fortified with Vitamin B-1 666 International Units."

NATURE OF CHARGE: Misbranding, Section 403 (a), the name of the article, "Choc-O-Lac," was false and misleading as applied to the article, which did not contain chocolate; furthermore, the label statement, "Health Builder," was false and misleading, since the article was not a health builder. Further misbranding, Section 403 (e) (2), the label of the article failed to contain an accurate statement of the quantity of the contents in terms of measure, since the article was a liquid and the statement, "Contents 20 Ozs. Avd.," was inaccurate; Section 403 (f), the common or usual names of the ingredients of the article, required by law to appear on the label, were not prominently placed on the label with such conspicuousness (as compared with other words, statements, designs, and devices, on the label) as to render them likely to be read by the ordinary individual under customary conditions of purchase and use, since the names of the ingredients were printed at right angles to the main label panel in very small type; and, Section 403 (j), the article purported to be, and was represented as, a food for special dietary uses by man because of its vitamin B₁ content, and its label failed to bear, as required by the regulations, a statement of the proportion of the minimum daily requirement for the vitamin supplied by the article when consumed in a specified quantity during a period of one day.

DISPOSITION: October 8, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to charitable organizations.

12785. Adulteration of Moregg and Dr. Fenton's Vigortone No. 5½ (veterinary preparations). U. S. v. Dr. Fenton's Vigortone Co. Plea of guilty. Fine, \$400 and costs. (F. D. C. No. 14268. Sample Nos. 40640-F, 63187-F.)

INFORMATION FILED: August 22, 1945, Northern District of Iowa, against Dr. Fenton's Vigortone Co., a partnership, Cedar Rapids, Iowa.

ALLEGED SHIPMENT: On or about December 14, 1943, from the State of Iowa into the States of Illinois and Minnesota.

LABEL, IN PART: (Moregg) "Strontium Nitrate Lime (Ca. 19.5%) Phosphorus (P) 2.5%"; (Vigortone) "Strontium Nitrate."

NATURE OF CHARGE: Adulteration, Section 402 (b) (1), valuable constituents had been in whole or in part omitted or abstracted from the articles, since there was no strontium nitrate in either of the articles and since there was materially less than 19.5 percent of lime (Ca) and materially less than 2.5 percent of phosphorus (P) in the Moregg.

The information consisted of 3 counts, 2 charging violation under the provisions of the law applicable to foods, as reported herein. The remaining count involved another product, Wormine, and charged misbranding of that product under the provisions of the law applicable to drugs, as reported in notices of judgment on drugs and devices, No. 2143.

DISPOSITION: November 6, 1946. A plea of guilty having been entered, the court imposed a fine of \$200 on each count, plus costs.

12786. Adulteration and misbranding of Farm Master Mineral Block. U. S. v. 28 * * *. (F. D. C. No. 21814. Sample No. 49989-H.)

LIBEL FILED: December 5, 1946, Northern District of Texas.

ALLEGED SHIPMENT: On or about August 14, 1946, by Sears, Roebuck & Co., from Kansas City, Mo.

PRODUCT: 28 mineral blocks for cattle at Dallas, Tex.

LABEL, IN PART: "Farm Master Mineral Block for Cattle and Hogs."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), a product containing less than 15 percent calcium, 3.30 percent phosphorus, and 0.05 percent iodine had been substituted for a product containing not less than 15 percent calcium, 3.30 percent phosphorus, and 0.05 percent iodine.

Misbranding, Section 403 (a), the label statement, "Calcium (Ca), not less than 15.00% Phosphorus, not less than 3.30% Iodine, not less than 0.05%," was false and misleading.

DISPOSITION: January 22, 1947. No claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to a public institution.

MISCELLANEOUS FOODS

12787. Adulteration of Olive-Naise. U. S. v. 9 Cases * * * (and 2 other seizure actions). (F. D. C. Nos. 22306, 22489, 22490. Sample Nos. 63981-H, 64760-H, 66025-H.)

LIBELS FILED: February 8 and March 5, 1947, Northern District of New York and District of New Jersey.

ALLEGED SHIPMENT: Between the approximate dates of November 7 and 19, 1946, by Mrs. Schlorer's, Inc., from Philadelphia, Pa.

PRODUCT: Olive-Naise. 9 cases at Atlantic City, N. J.; and 132 cases at Oneonta, N. Y., and 8 cases at Syracuse, N. Y. Each case contained 24 ½-pint jars of the product.

LABEL, IN PART: "Mrs. Schlorer's Olive-Naise."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article contained an added poisonous and deleterious substance, monochloroacetic acid, which is unsafe within the meaning of the law, since it is a substance not required in the production of this article and could have been avoided by good manufacturing practice.

DISPOSITION: March 10 and 28, 1947. No claimant having appeared for any of the lots, judgments of condemnation were entered and the product was ordered destroyed.

12788. Adulteration and misbranding of lemon pie crust and filling and chocolate pie crust and filling. U. S. v. 9 Cases, etc. (F. D. C. No. 24296. Sample Nos. 10265-K, 10266-K.)

LIBEL FILED: January 6, 1948, Southern District of New York.

ALLEGED SHIPMENT: On or about October 23, 1947, by 6-O'clock Foods, Inc., from Norristown, Pa.

PRODUCT: 9 cases, each containing 24 packages, of lemon pie crust and filling and 12 cases, each containing 24 packages, of chocolate pie crust and filling, at Kingston, N. Y.

LABEL, IN PART: "7-Minit Complete Lemon Pie Crust and Filling Ingredients: Flour, shortening, corn starch, fruit acid, lemon oil, salt, baking powder and

certified color * * * Directions * * * Add ½ cup sugar * * * Add 1 egg," and "7-Minit Complete Chocolate Pie Crust and Filling Ingredients: Flour, shortening, corn starch, cocoa, salt, baking powder and artificial flavoring * * * Directions * * * Add sugar to taste (½ cup) * * * Stir in slowly ½ cup cold milk. * * * Then add 2 more cups cold milk."

NATURE OF CHARGE: Adulteration, Section 402 (b) (1), valuable constituents of lemon pie filling, eggs, sugar, and lemon juice, and valuable constituents of chocolate pie filling, sugar and milk, had been in whole or in part omitted.

Misbranding, Section 403 (a), the label designations "Complete Lemon Pie Crust and Filling" and "Complete Chocolate Pie Crust and Filling" were false and misleading as applied to products which would not make complete pie fillings, since they required the addition of ingredients by the purchaser.

DISPOSITION: January 28, 1948. No claimant having appeared, judgment of condemnation was entered and the products were ordered delivered to a charitable institution.

12789. Adulteration and misbranding of lemon pie filling. U. S. v. 397 Boxes
* * *. (F. D. C. No. 23776. Sample No. 6203-K.)

LIBEL FILED: September 25, 1947, Western District of Pennsylvania.

ALLEGED SHIPMENT: On or about September 12, 1947, by the Atlantis Sales Corporation, from Rochester, N. Y.

PRODUCT: 397 boxes, each containing 48 cartons, of pie filling at Pittsburgh, Pa. Examination showed that the product was a combination of a powder consisting essentially of a mixture of starch and sugar artificially colored with a yellow coal-tar dye, a tablet of citric acid, and a capsule containing lemon oil.

LABEL, IN PART: (Cartons) "Good Luck Lemon Flavor Pie Filling Use With Egg, Net Wt. 4½ Oz. Manufactured by Good Luck Food Co., Inc., Rochester, N. Y."

NATURE OF CHARGE: Adulteration, Section 402 (b) (1), the article was represented as a lemon-flavor pie filling, and valuable ingredients, eggs, sugar, and lemon juice, necessary to make a lemon-flavor pie filling had been in whole or in part omitted.

Misbranding, Section 403 (a), the designation "Pie Filling" was false and misleading, since the article was not a pie filling.

DISPOSITION: October 22, 1947. The Atlantis Sales Corporation, claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond for relabeling under the supervision of the Federal Security Agency.

12790. Adulteration of meat substitutes. U. S. v. 10 Cases of Zoyburger (and 1 other seizure action against various meat substitutes). (F. D. C. Nos. 23807, 23865. Sample Nos. 8744-K to 8749-K, incl., 15303-K.)

LIBELS FILED: On October 20 and 23, 1947, Southern District of New York and Northern District of Illinois.

ALLEGED SHIPMENT: On or about September 2, 8, and 19, 1947, by Madison Foods, from Madison College, Tenn.

PRODUCT: 10 cases, each containing 24 1-pound, 4-ounce cans, of Zoyburger at Chicago, Ill., and 120 cases, each containing 24 1-pound, 4-ounce cans, of various meat substitutes at New York, N. Y.

LABEL, IN PART: "Zoyburger," "Yum A Madison Food," "Stake-Lets," "Vigorost Made of Gluten, Soy Cheese," "Soy Cheese Soy Bean Curd with Soy Oil," or "Not-Meat A Tasty Meatless Loaf."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the products consisted in whole or in part of filthy substances by reason of the presence of rodent hair fragments, insects, and insect fragments; and, Section 402 (a) (4), they had been prepared under insanitary conditions whereby they may have become contaminated with filth.

DISPOSITION: November 26, 1947, and January 29, 1948. Default decrees of condemnation and destruction.

12791. Adulteration of spaghetti sauce with meat balls. U. S. v. 37 Cases
* * *. (F. D. C. No. 20671. Sample No. 60162-H.)

LIBEL FILED: August 16, 1946, Western District of Pennsylvania.

ALLEGED SHIPMENT: On or about June 15, 1946, by the Helen Packing Corporation, from Buffalo, N. Y.

PRODUCT: 37 cases, each containing 12 1-pound cans, of spaghetti sauce with meat balls at Erie, Pa.

LABEL, IN PART: "Sa-Mae Brand Real Italian Style Spaghetti Sauce with Meat Balls."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance.

DISPOSITION: October 16, 1946. No claimant having appeared, judgment of condemnation was entered ordering the product destroyed.

12792. Adulteration of Cosco liquid food coloring and Cosco imitation strawberry extract. U. S. v. 16 Jugs * * *. (F. D. C. No. 19999. Sample Nos. 49207-H, 49208-H.)

LIBEL FILED: May 23, 1946, Eastern District of Louisiana; amended libel filed May 31, 1946.

ALLEGED SHIPMENT: On or about March 22, 1946, by the C. O. & W. D. Sethness Co., Chicago, Ill.

PRODUCT: The products were located at Independence, La. The food coloring contained 1,647 parts per million, and the extract contained 1,188 parts per million, of monochloracetic acid. The food coloring contained also amaranth and Orange I, coal-tar colors which are certifiable but which had not been certified in accordance with the regulations.

NATURE OF CHARGE: Adulteration, Section 402 (a) (2), the products contained an added poisonous and deleterious substance, monochloracetic acid, which is unsafe within the meaning of the law; and, Section 402 (c), (liquid food coloring) it contained coal-tar colors other than ones from batches that had been certified in accordance with the regulations.

DISPOSITION: July 22, 1946. No claimant having appeared, judgment of condemnation was entered and the products were ordered destroyed.

12793. Adulteration of frozen tamales. U. S. v. 696 Cases * * * (and 1 other seizure action). (F. D. C. Nos. 21754, 22432. Sample Nos. 32189-H, 32191-H.)

LIBELS FILED: November 20, 1946, and January 24, 1947, Southern District of California.

ALLEGED SHIPMENT: On or about July 10, 1946, by FroSTex Foods, Inc., from Dallas, Tex.

PRODUCT: Frozen tamales. 508 cases, each containing 40 12½-ounce cartons, and 249 cases, each containing 12 3-pound cartons, at Los Angeles, Calif.

LABEL, IN PART: "FroSTex Texas Tamales."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of being sour.

DISPOSITION: January 17 and February 26, 1947. No claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

12794. Adulteration of sandwich spread. U. S. v. 43 Cases * * *. (F. D. C. No. 21802. Sample Nos. 48151-H, 48152-H.)

LIBEL FILED: December 2, 1946, District of Utah.

ALLEGED SHIPMENT: On or about March 14, 1946, by the Oregon Dairy & Poultry Products Co., from Portland, Oreg.

PRODUCT: 20 cases, each containing 24 3-ounce jars, and 23 cases, each containing 48 3½-ounce cans, of sandwich spread at Salt Lake City, Utah.

LABEL, IN PART: "Rancher's Pride Turko Sandwich Spread * * * [or "Turko Sandwich Spread"] Packed by Washington Creamery Co., Seattle, Wash."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article was unfit for food by reason of the presence of pin feathers.

DISPOSITION: January 10, 1947. No claimant having appeared, judgment was entered ordering that the product be destroyed by utilizing it for animal feed.

12795. Adulteration of sandwich spread. U. S. v. 12 Cases * * *. (F. D. C. No. 22519. Sample No. 62623-H.)

LIBEL FILED: February 12, 1947, Northern District of California.

ALLEGED SHIPMENT: On or about December 6, 1945, by the Washington Creamery Co., from Seattle, Wash.

PRODUCT: 12 cases, each containing 48 3½-ounce cans, of sandwich spread at Sacramento, Calif.

LABEL, IN PART: "Turko Sandwich Spread."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article was unfit for food by reason of the presence of pin feathers.

DISPOSITION: March 14, 1947. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

12796. Adulteration of sunflower seed. U. S. v. 350 Bags * * *. (F. D. C. No. 22443. Sample No. 73410-H.)

LIBEL FILED: January 28, 1947, District of Minnesota.

ALLEGED SHIPMENT: On or about October 3, 1946, from Manteca, Calif.

PRODUCT: 353 100-pound bags of sunflower seeds at St. Paul, Minn., in possession of the Central Warehouse Co. The article was stored under insanitary conditions after shipment. Some of the bags were rodent-gnawed, and rodent excreta was observed on them. Examination showed that the article contained rodent excreta, rodent hair fragments, and insects.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: February 13, 1947. The Fisher Nut & Chocolate Co., St. Paul, Minn., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond, conditioned that it be brought into compliance with the law, under the supervision of the Federal Security Agency.

12797. Misbranding of Reid's Special Dessert. U. S. v. 6 Bags, etc. (F. D. C. No. 22995. Sample Nos. 86641-H, 86642-H.)

LIBEL FILED: April 25, 1947, Eastern District of Missouri.

ALLEGED SHIPMENT: On or about November 2, 1946, by Reid Murdoch & Co., from Chicago, Ill.

PRODUCT: 6 bags, each containing 75 pounds, of Reid's Special Dessert at St. Louis, Mo., together with 2 boxes, each containing 75 8-ounce bags, of a product which had been repackaged from bulk material labeled "Reid's Special Dessert." Examination showed that the product consisted essentially of potato starch.

NATURE OF CHARGE: Misbranding, Section 403 (a), the label designation "Special Dessert" was false and misleading as applied to potato starch; Section 403 (e) (1), the article failed to bear a label containing the name and place of business of the manufacturer, packer, or distributor; Section 403 (e) (2), it failed to bear a label containing an accurate statement of the quantity of the contents; and, Section 403 (i) (1) the label failed to bear the common or usual name of the article.

DISPOSITION: June 13, 1947. Default decree of condemnation. The product was ordered delivered to a charitable organization.

12798. Misbranding of coconut custard mix. U. S. v. 298 Cases * * *. (F. D. C. No. 22586. Sample No. 52491-H.)

LIBEL FILED: February 27, 1947, Southern District of Ohio.

ALLEGED SHIPMENT: On or about October 12, 1946, by Verifine Foods, from Chicago, Ill.

PRODUCT: 298 cases, each containing 16 1½-ounce packages, of coconut custard mix at Cincinnati, Ohio.

LABEL, IN PART: "Hixson's Coconut Custard Mix."

NATURE OF CHARGE: Misbranding, Section 403 (a), the label statements (package) "Dry Milk Solids * * * Sugar" and (display streamers) "Eggs,

Milk * * * are in it" were misleading, since they suggested that the product contained all ingredients, with the addition of water, to make coconut custard pie filling, whereas it was necessary to add sugar and milk to make such filling; Section 403 (d), the container of the article was so filled as to be misleading, because the powder mixture occupied only about 54 percent of the volume of the package.

DISPOSITION: May 26, 1947. Default decree of condemnation. The product was ordered delivered to charitable institutions.

12799. Misbranding of pudding mix. U. S. v. 49 Cases * * *. (F. D. C. No. 21841. Sample No. 52468-H.)

LIBEL FILED: December 9, 1946, Middle District of Pennsylvania.

ALLEGED SHIPMENT: On or about November 21, 1946, by Russell Allied Industries, from Columbus, Ohio.

PRODUCT: 49 cases, each containing 29 2-ounce cartons, of pudding mix at Hanover, Pa. Examination showed that each carton of the product contained two paper bags of a powder mixture containing no sugar or dairy ingredient. The bags occupied only about 70 percent of the volume of the carton.

LABEL, IN PART: "So-Ezy Pie and Pudding Mix 2 Oz. or Over." The directions for use were printed in small type on the back panel of the carton.

NATURE OF CHARGE: Misbranding, Section 403 (a), the label statements, "So-Ezy Pie and Pudding Mix * * * Makes 2 Pies or 12 Servings Dessert * * * Unexcelled for pies, puddings, custards, cake fillings," were false and misleading because they failed to reveal conspicuously the material fact that expensive ingredients, sugar and milk, must be added; and, Section 403 (d), the container of the article was so filled as to be misleading.

DISPOSITION: February 10, 1947. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

12800. Misbranding of Quik-Mix. U. S. v. 141 Cartons * * *. (F. D. C. No. 21593. Sample No. 5559-H.)

LIBEL FILED: October 30, 1946, Eastern District of Pennsylvania.

ALLEGED SHIPMENT: On or about June 28, 1946, by the Pallais Food Products Co., from Cleveland, Ohio.

PRODUCT: 141 cartons, each containing 48 1/6-ounce envelopes, of Quik-Mix at Philadelphia, Pa.

NATURE OF CHARGE: Misbranding, Section 403 (a), the label statements (carton) "Quik-Mix * * * Enough to make 4 pints * * * Ice Cream Any Flavor" and (envelope) "Quik-Mix Quik-Mix Easy to Make Enough to Make 4 Pints Ice Cream Healthful Nutritious * * * Any Flavor" were false and misleading as applied to the article, which was conspicuously represented as having components of ice cream but which failed to reveal with equal conspicuousness the fact that the article was only a stabilizer and that the expensive ingredients must be furnished by the purchaser; and, Section 403 (k), the article contained artificial flavoring and failed to bear labeling stating that fact.

DISPOSITION: January 14, 1947. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

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PRODUCTS

	N. J. No.		N. J. No.
Alfalfa meal	12684	Beans, Mexican Style, canned	12716,
Anise seed	12743, 12744		12717
Apple(s)	12706	Beer	12601
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Apricots, canned	12700	rials	12601-12614, 12792
dried	12704	Bex	12768
Ar-O Inhibitor	12614	Blackberry jelly	12712
Baby food	12719	Blueberries, canned	12698
Bakery products	12615-12625	fresh and frozen	12707

	N. J. No.		N. J. No.
Blumas Choc-O-Lac	12784	Fruits and vegetables—Continued.	
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Bread	12615, 12616	frozen	12707-12710
Brewer's yeast tablets	12768	miscellaneous fruit prod-	
Broccoli, frozen	12718	ucts	12711-12715, 12746
Brown Four Vitamin Spheroids	12770	tomatoes and tomato products	12602-
Buns	12615		12611, 12723-12727
Butter	12656-12662	vegetables and vegetable prod-	
Cake rolls	12625	ucts	12716-12722, 12746
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Cashew nuts, salted	12736	Grains. <i>See</i> Feeds and grains.	
Cereal Lactic Improved Vitamin	12774	Guava paste	12711
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grated	12671, 12672	mix	12800
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Choc-O-Lac	12784	Lemon pie crust and filling	12788,
Chocolate pie crust and filling	12788		12789
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Cones, ice cream	12617	tion	12613
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Corn meal	12626-12632	Major B Complex Tablets	12777
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Cosco imitation strawberry		Maltose sirup	12612
extract	12792	Meat substitutes	12790
Cottonseed cake and meal	12686	Mineral Block, Farm Master	12786
meal	12685	Miso (Japanese condiment)	12765
Cream	12674-12676	Moregg	12785
meal. <i>See</i> Corn meal.		Multiple vitamin capsules	12769, 12773
Curd cheese, washed	12670	Mushroom sauce	12757
Custard mix, coconut	12798	Mustard	12746
Dairy products	12656-12676	flour	12747
Derbetain Broth Powder	12776	Nasco Brand Saccharin Tablets	12782
Dextrose	12652	Nectarines, dried	12705
Dex-Tro-Bese No. 11 and Dex-		Not-Meat (meat substitute)	12790
Tro-Special No. 20	12767	Nova Kelp tablets	12780
Doughnut flour	12634	Nuts	12728-12736
Easter eggs, chocolate	12648	Olive-Naise, Mrs. Schlorer's	12787
Eggs	12677-12683	Optimals Special Formula Mul-	
dried	12677	tipple Vitamin Capsules	12769
Easter, chocolate	12648	Orange Round Nine Vitamin	
frozen	12678-12683	Spheroids	12770, 12772
Enriched flour	12635-12637	Oysters	12691-12694
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and Moregg	12785	Peanut(s)	12734
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fruit, canned	12698-12703	sweet	12746
dried	12704, 12705		

¹ (12781) Seizure contested.

	N. J. No.		N. J. No.
Pie crust and filling, chocolate, and lemon-----	12788	Spinach-----	12722
Popcorn seasoning-----	12753, 12754	Stake-Lets (meat substitute)---	12790
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Rosefish fillets, frozen-----	12688	Tomato(es), canned-----	12723-12725
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maltose-----	12612	Vitamin, mineral, and other prod- ucts of special dietary sig- nificance-----	12649, 12650, 12767-12786
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SHIPPERS, MANUFACTURERS, AND DISTRIBUTORS

	N. J. No.		N. J. No.
AAA Alfalfa Milling Co.:		April Produce:	
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Ace Packing Co.:		Atlantic Preserving Co.:	
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Acme Poultry Corp.:		Atlantis Sales Corp.:	
frozen dressed poultry-----	12740	lemon pie filling-----	12789
Adams, Clyde:		Automatic Cone Co.:	
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Affiliated Bakers Co.:		Barjay Products, Inc.:	
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candy-----	12642	Beatrice Creamery Co.:	
Allen, C. R.:		butter-----	12660
guava paste-----	12711	cream-----	12675
Altray Co.:		Becker Pretzel Bakeries, Inc.:	
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American Cone & Pretzel Co.:		peach preserves-----	12713
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American Spice Mills, Inc.:		honey-----	12654, 12655
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Anderson Specialty Co. (Econ- omy Drug Co.):		mustard, sweet pickles, and ap- ple butter-----	12746
saccharin tablets-----	12783	Bernau Processing Plant:	
		popcorn seasoning-----	12754

¹ (12781) Seizure contested.² (12622) Prosecution contested.

	N. J. No.		N. J. No.
Bertman, Joseph:		Cincinnati Terminal Warehouse	
dill pickles-----	12721	Co.:	
Bertman Products. <i>See</i> Bert-		frozen poultry-----	12737
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Booth Fisheries Corp.:		Cumberland Manufacturing Co.:	
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Boswell Co.:		Damore Spice Co.:	
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Bowker Produce Station:		Davis, Harry E., Co.:	
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Bundy Brothers Mill Co.:		Descalzi, Jas. A.:	
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Creamery Co., Inc.:		cheese-----	12665
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Cathon, R. V., & Sons:		brazil nuts-----	12729
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Central Warehouse Co.:		canned peas-----	12720
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¹ (12781) Seizure contested.

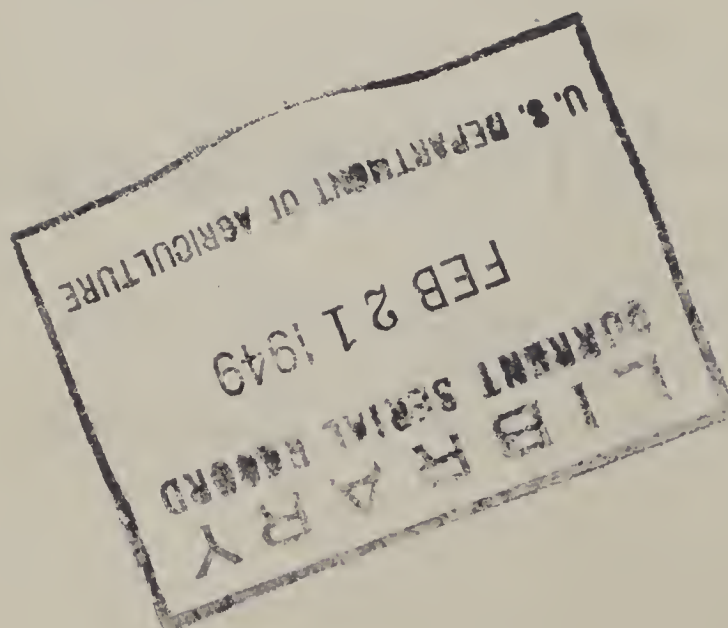
	N. J. No.		N. J. No.
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Fall River Canning Co.:		Hanover Star Milling Co.:	
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Fujimoto & Co.:		frozen poultry-----	12737
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Golden Meadow Fisheries Co.:		cream-----	12676
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Graham Co., Inc.:		Nova Kelp tablets-----	12780
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McEvoy, H. F.:		frozen whole eggs-----	12682
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	N. J. No.		N. J. No.
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Reid's Special Dessert-----	12797	chocolate pie crust and fill-	
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Roberts Brothers, Inc.:		frozen shrimp-----	12696
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Rocky Bay Fishing Co.:		corn meal-----	12626
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Rocky Mountain Pickle Co.:		canned cherries-----	12699
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Rosenberg Bros. & Co.:		canned oysters-----	12691
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Rothenburg & Schneider Bros.:		Studer Brothers:	
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Rupp, John:		Suburban Sales Co.:	
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Russell Allied Industries:		Supreme Fillet Co.:	
pudding mix-----	12799	frozen rosefish fillets-----	12688
Ryley-Wilson Gro. Co.:		Sure Foods Specialty Co.:	
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32177

FEDERAL SECURITY AGENCY
FOOD AND DRUG ADMINISTRATION

NOTICES OF JUDGMENT UNDER THE FEDERAL FOOD, DRUG,
AND COSMETIC ACT

[Given pursuant to section 705 of the Food, Drug, and Cosmetic Act]

12801-13000

FOODS

The cases reported herewith were instituted in the United States district courts by the United States attorneys acting upon reports submitted by direction of the Federal Security Administrator.

OSCAR R. EWING, *Administrator, Federal Security Agency.*

WASHINGTON, D. C., June 14, 1948.

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BEVERAGES AND BEVERAGE MATERIALS

12801. Adulteration of beer. U. S. v. Mankato Brewing Co., a corporation, and Dan R. Bruzek. Pleas of guilty. Corporation fined \$800; individual fined \$200. Both defendants placed on 2 years' probation. (F. D. C. No. 23608. Sample Nos. 51095-H, 52333-H.)

INFORMATION FILED: November 8, 1947, District of Minnesota, against the Mankato Brewing Co., a corporation, Mankato, Minn., and Dan R. Bruzek, secretary-treasurer and general manager.

ALLEGED SHIPMENT: On or about June 13, 1946, and April 23, 1947, from the State of Minnesota into the State of Iowa.

LABEL, IN PART: "Kato Black Label Pilsner Beer."

NATURE OF CHARGE: Adulteration, Section 402 (a) (4), the product had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: March 11, 1948. Pleas of guilty having been entered, the corporation was fined \$800 and the individual defendant, \$200. Both defendants were placed on probation for a period of 2 years.

12802. Adulteration of beer. U. S. v. Metropolis Brewery, Inc. Plea of guilty. Fine, \$500. (F. D. C. No. 20134. Sample No. 1601-H.)

INFORMATION FILED: November 18, 1946, Southern District of New York, against the Metropolis Brewery, Inc., New York, N. Y.

ALLEGED SHIPMENT: On or about September 21, 1945, from the State of New York into the State of North Carolina.

LABEL, IN PART: "Lion Pilsener Beer."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insect parts and dirt.

DISPOSITION: December 16, 1946. A plea of guilty having been entered, the defendant was fined \$500.

12803. Adulteration of beer. U. S. v. Pilser Brewing Co., Inc. Plea of guilty. Fine, \$1,050. (F. D. C. No. 20135. Sample Nos. 700-H, 1047-H, 1602-H.)

INFORMATION FILED: November 18, 1946, Southern District of New York, against the Pilser Brewing Co., Inc., New York, N. Y.

ALLEGED SHIPMENT: On or about September 20 and 25, 1945, from the State of New York into the States of North Carolina and Georgia.

LABEL, IN PART: "Koenigs Special New York's Premium Beer," or "Lion Pilsener Beer."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insect parts, maggots, and dirt.

DISPOSITION: December 16, 1946. A plea of guilty having been entered, the defendant was fined \$1,050.

12804. Adulteration of beer. U. S. v. 200 Cases * * *. (F. D. C. No. 21750. Sample No. 67080-H.)

LIBEL FILED: November 27, 1946, District of Kansas.

ALLEGED SHIPMENT: On or about November 5, 1946, by the Birk Bros. Brewing Co., from Galewood, Ill.

PRODUCT: 200 cases, each containing 24 12-ounce bottles, of beer at Hutchinson, Kans.

LABEL, IN PART: "Trophy Beer."

NATURE OF CHARGE: Adulteration, Section 402 (a) (2), the article contained an added poisonous and deleterious substance, monochloroacetic acid, which is unsafe within the meaning of the law, since it is a substance not required in the production of the article and could have been avoided by good manufacturing practice.

DISPOSITION: December 5, 1946. The Birk Bros. Brewing Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond for the purpose of destroying the contents and salvaging the containers.

12805. Adulteration and misbranding of carbonated beverages. U. S. v. Mike Napple (Eagle Bottling Works). Plea of guilty. Fine, \$1,000. (F. D. C. No. 19535. Sample Nos. 28100-H, 36402-H, 36403-H.)

INFORMATION FILED: May 16, 1946, Western District of Washington, against Mike Napple, trading as the Eagle Bottling Works, Seattle, Wash.

ALLEGED SHIPMENT: On or about April 24 and May 15 and 17, 1945, from the State of Washington into the Territory of Alaska.

LABEL, IN PART: "Strawberry Soda," "Root Beer," or "Pale Gingerale Dry."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a filthy substance by reason of the presence of mold, masses of yeast cells, pieces of metal foil, pieces of yellow filament, and fragments of glass; and, Section 402 (a) (4), it had been prepared, packed, and held under insanitary conditions whereby it may have become contaminated with filth.

Misbranding, Section 403 (e) (1), the product failed to bear a label containing the name and place of business of the manufacturer, packer, or distributor.

DISPOSITION: August 19, 1946. A plea of guilty having been entered, the defendant was fined \$1,000, plus costs.

12806. Adulteration of Kaffee Hag coffee. U. S. v. 170 Cases * * *. (F. D. C. No. 21778. Sample No. 61454-H.)

LIBEL FILED: December 11, 1946, Western District of Washington.

ALLEGED SHIPMENT: On or about August 16 and September 16, 1946, by the General Food Sales Co., Inc., from Los Angeles, Calif.

PRODUCT: 170 cases, each containing 12 1-pound jars, of Kaffee Hag coffee at Seattle, Wash.

NATURE OF CHARGE: Adulteration, Section 402 (a) (1), the product contained glass fragments, an added deleterious substance, which may have rendered it injurious to health.

DISPOSITION: February 11, 1947. Default decree of condemnation and destruction.

12807. Adulteration of Kona Coffee (raw coffee). U. S. v. 100 Bags, etc. (F. D. C. No. 21770. Sample Nos. 46569-H, 46570-H.)

LIBEL FILED: November 27, 1946, Northern District of California.

ALLEGED SHIPMENT: On or about May 13, 1946, by American Factors, Ltd., from Hilo, Hawaii.

PRODUCT: 142 100-pound bags of Kona Coffee (raw coffee).

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent excreta, and of a putrid and decomposed substance by reason of the presence of putrid and decomposed coffee beans.

DISPOSITION: May 29, 1947. Wellman, Peck & Co., San Francisco, Calif., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond, conditioned that it be cleaned. The seized goods (9,575 pounds) were reconditioned; 6,710 pounds were found to be passable, and 2,858 pounds were rejected as unfit. There was a 7-pound loss in weight in the cleaning operations.

12808. Adulteration and misbranding of grape beverage. U. S. v. 75 Cases * * *. (F. D. C. No. 22990. Sample No. 55216-H.)

LIBEL FILED: April 23, 1947, Middle District of Georgia.

ALLEGED SHIPMENT: On or about November 3, 1946, by J. N. Cain, from Sumter, S. C.

PRODUCT: 75 cases, each containing 12 ½-gallon jars, of grape beverage at Albany, Ga.

NATURE OF CHARGE: Adulteration, Section 402 (b) (1), grape juice or grape concentrate had been in whole or in part omitted from the article; Section 402 (b) (3), inferiority had been concealed by the use of artificial flavor and color; and, Section 402 (b) (4), artificial flavoring and coloring had been added to the article and mixed and packed with it so as to make it appear better and of greater value than it was.

Misbranding, Section 403 (a), the label statements, "Grape Juice Rich Fruity Prepared From True Grape Concentrate, Sugar, Water, and U. S. Artificial Color. A Special Grape Acid" and "Supermite Grape Rich Fruity Flavor Prepared from True Grape Concentrate, Sugar, Water, and U. S. Certified Color Special Acid for Grape," were false and misleading (the article was an artificially flavored and colored mixture of water, sugar, and acids, containing little, if any, grape juice or grape concentrate.)

DISPOSITION: June 5, 1947. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

12809. Adulteration and misbranding of grape beverage. U. S. v. 50 Cases * * *. (F. D. C. No. 22910. Sample No. 90891-H.)

LIBEL FILED: April 9, 1947, District of New Jersey.

ALLEGED SHIPMENT: On or about August 10, 1946, by the Army Packing Company, Inc., from Utica, N. Y.

PRODUCT: 50 cases, each containing 12 1-quart bottles, of grape beverage at Jersey City, N. J.

LABEL, IN PART: (Bottles) "Southern Grape Drink * * * Contains Pure Grape Juice, Refined Cane Syrup, Citric Acid, Water."

NATURE OF CHARGE: Adulteration, Section 402 (b) (4), artificial color and citric acid had been added to the article and mixed and packed with it so as to make it appear better and of greater value than it was.

Misbranding, Section 403 (a), the label designation "Grape Drink" was false and misleading as applied to the article, which was an artificially colored and acidulated beverage containing an insignificant amount of grape juice; and, Section 403 (k), the article contained artificial coloring and a chemical preservative, sodium benzoate, and failed to bear labeling stating that fact.

DISPOSITION: May 20, 1947. Default decree of condemnation and destruction.

12810. Adulteration and misbranding of Grape-Ade beverage. U. S. v. 74 Cases
* * *. (F. D. C. No. 22643. Sample No. 50170-H.)

LIBEL FILED: March 21, 1947, Western District of Texas.

ALLEGED SHIPMENT: On or about October 19, 1946, by the Caltone Corporation, from Anaheim, Calif.

PRODUCT: 74 cases, each containing 24 1-pint, 2-ounce cans, of Grape-Ade at San Antonio, Tex. Examination showed that the product was an artificially flavored acidulated mixture of water, grape juice, and sugar.

LABEL, IN PART: "Caltone California Grape-Ade Contains Water, Grape Juice Concentrate, Fruit Acid, and Imitation Concord Grape Flavor."

NATURE OF CHARGE: Adulteration, Section 402 (b) (4), artificial flavor and acid had been added to the article and mixed and packed with it so as to make it appear better and of greater value than it was.

Misbranding, Section 403 (a), the designation "Grape-Ade" and designs of clusters of grapes prominently displayed on the label of the article were misleading as applied to an artificially flavored, acidulated mixture of water, grape juice, and sugar.

DISPOSITION: May 27, 1947. No claimant having appeared, and the court having found that the product was adulterated and misbranded, an order was entered directing that the product be delivered for the use of charitable institutions.

12811. Adulteration and misbranding of grape juice. U. S. v 45 Cases * * *
(and 1 other seizure action). (F. D. C. Nos. 23124, 23125. Sample Nos. 66790-H, 66791-H, 66793-H, 66794-H.)

LIBELS FILED: May 22, 1947, District of New Jersey.

ALLEGED SHIPMENT: On or about March 19 and 20, 1947, by Aunt Lil's Food Products, Inc., from Utica, N. Y.

PRODUCT: Grape juice. 45 cases at Hoboken, N. J., and 21 cases at Bayonne, N. J. Each case contained 12 1-quart bottles.

LABEL, IN PART: "Aunt Lil's Pasteurized Concord Grape Juice."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), water had been substituted in part for grape juice; and, Section 402 (b) (4), water had been added to the article and mixed and packed with it so as to increase its bulk or weight and reduce its quality and strength.

Misbranding, Section 403 (a), the label statement "Concord Grape Juice * * * Sugar Added" was false and misleading as applied to an article containing added water; Section 403 (e) (2), the article failed to bear a label containing an accurate statement of the quantity of the contents, since the article was short-volume; and, Section 403 (i) (2), the label of the article failed to bear the common or usual name of each ingredient, since water was not declared.

DISPOSITION: July 21, 1947. No claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to charitable institutions.

12812. Adulteration of grape-flavored sirup. U. S. v. 3 Barrels * * *
(F. D. C. No. 23348. Sample Nos. 79501-H, 83377-H.)

LIBEL FILED: July 10, 1947, Northern District of Illinois.

ALLEGED SHIPMENT: On or about June 19, 1947, by the Isaly's Dairy Co., from Columbus, Ohio. This was a return shipment.

PRODUCT: 3 50-gallon barrels of grape-flavored sirup at Chicago, Ill.

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), saccharin, having no food value, had been substituted in whole or in part for sugar; and, Section 402 (b) (4), saccharin had been mixed and packed with the article so as to reduce its quality and strength and make it appear better and of greater value than it was.

DISPOSITION: December 17, 1947. Default decree of condemnation and destruction.

12813. Adulteration of orange juice and blended orange and grapefruit juice. U. S. v. 133 Cases, etc. (F. D. C. Nos. 22998, 23056. Sample Nos. 54152-H, 77544-H, 77545-H.)

LIBELS FILED: April 26 and May 29, 1947, Southern Districts of Iowa and Indiana, respectively.

ALLEGED SHIPMENT: On or about March 11 and 17, 1947, by the J. William Horsey Corporation, from Bartow, Fla.

PRODUCT: 318 cases of blended orange and grapefruit juice at Indianapolis, Ind., and 74 cases of the same product and 133 cases of orange juice at Sioux City, Iowa. Each case contained 12 1-quart, 14-fluid ounce cans, of the products.

LABEL, IN PART: "Orchard Fresh Brand Blended Orange and Grapefruit Juice * * * Packed for Standard Grocery Co., Indianapolis, Ind.," or "Lush'us Brand Blended Orange and Grapefruit Juice [or "Orange Juice"] * * * Distributed by Affiliated Food Distributors, Inc. Headquarters Chicago, Ill."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), (both lots) the articles consisted in whole or in part of filthy substances by reason of the presence of mold; and, Section 402 (a) (4), (Sioux City lots only) the articles had been prepared under insanitary conditions whereby they may have become contaminated with filth.

DISPOSITION: May 31 and July 9, 1947. Default decrees of condemnation and forfeiture.

12814. Adulteration of canned orange juice and blended orange and grapefruit juice. U. S. v. J. William Horsey Corporation. Plea of nolo contendere. Fine, \$750. (F. D. C. No. 23578. Sample Nos. 54152-H, 77544-H, 77545-H.)

INFORMATION FILED: November 5, 1947, Southern District of Florida, against the J. William Horsey Corporation, Bartow, Fla.

ALLEGED SHIPMENT: On or about March 11 and 17, 1947, from the State of Florida into the States of Iowa and Indiana.

LABEL, IN PART: "Blended J'ce," or "Lush'us Brand Orange Juice [or "Blended Orange and Grapefruit Juice"] Unsweetened * * * Distributed by Affiliated Food Distributors, Inc., Chicago, Ill."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a decomposed substance by reason of the presence of mold; and, Section 402 (a) (4), it had been prepared and packed under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: November 12, 1947. A plea of nolo contendere having been entered, the defendant was fined \$750.

12815. Adulteration of canned orange juice and canned blended orange and grapefruit juice. U. S. v. 79 Cases, etc. (F. D. C. No. 23360. Sample Nos. 68483-H, 68484-H, 68488-H.)

LIBEL FILED: On or about July 18, 1947, Western District of Missouri.

ALLEGED SHIPMENT: On or about April 15, 1947, by the De Soto Canning Co., from Arcadia, Fla.

PRODUCT: 224 cases, each containing 12 1-quart, 14-ounce cans, of blended orange and grapefruit juice and 119 cases, each containing 24 1-pint, 2-ounce cans, of orange juice at St. Joseph, Mo.

LABEL, IN PART: "Pony Express Brand * * * Orange Juice [or "Blended Orange and Grapefruit Juice"]."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the articles consisted in whole or in part of filthy substances by reason of the presence of fly eggs, maggots, and whole fruit flies.

DISPOSITION: September 3, 1947. Default decree of destruction.

12816. Adulteration of canned blended orange and grapefruit juice. U. S. v. 904 Cases * * * (and 1 other seizure action). (F. D. C. Nos. 23462, 23511. Sample Nos. 87612-H, 91374-H, 91385-H.)

LIBELS FILED: July 2 and 21, 1947, Eastern District of New York and District of Connecticut.

ALLEGED SHIPMENT: On or about April 14 and 22, 1947, by Sasson-King, Ltd., from Lakeland and Tampa, Fla.

PRODUCT: 904 cases at Brooklyn, N.Y., and 287 cases at Hartford, Conn., each case containing 12 1-quart, 14-fluid ounce cans, of blended orange and grapefruit juice.

LABEL, IN PART: (Can) "Golden Harvest Brand [or "Lady Jean Supreme Quality"] Florida Blended Orange and Grapefruit Juice."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of fly eggs and maggots.

DISPOSITION: September 5 and October 10, 1947. Default decrees of condemnation and destruction.

12817. Adulteration of canned orange and grapefruit juice. U. S. v. 750 Cases * * *. (F. D. C. No. 23456. Sample No. 91379-H.)

LIBEL FILED: June 25, 1947, Eastern District of New York.

ALLEGED SHIPMENT: On or about April 28, 1947, by the Pasco Packing Co., from Dade City, Fla.

PRODUCT: 750 cases, each containing 24 1-pint, 2-ounce cans, of orange and grapefruit juice at Brooklyn, N. Y.

LABEL, IN PART: (Cans) "Gerbro Unsweetened Orange and Grapefruit Juice * * * Gerber Bros. Distributors Brooklyn, N. Y."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of fly eggs and maggots.

DISPOSITION: December 30, 1947. Default decree of condemnation and destruction.

12818. Adulteration of orange flavor sirup. U. S. v. 5 Barrels * * *. (F. D. C. No. 23349. Sample Nos. 83375-H, 83376-H.)

LIBEL FILED: July 9, 1947, Southern District of Ohio.

ALLEGED SHIPMENT: About May 2 and June 6, 1947, by O'Donnell & Co., Chicago, Ill.

PRODUCT: 5 55-gallon barrels of orange flavor sirup at Columbus, Ohio.

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), saccharin, having no food value, had been substituted in whole or in part for sugar; and, Section 402 (b) (4), saccharin had been mixed and packed with the article so as to reduce its quality and strength and make it appear better and of greater value than it was.

DISPOSITION: September 24, 1947. Default decree of destruction.

12819. Adulteration of tomato juice. U. S. v. 2,050 Cases * * * (and 4 other seizure actions). Tried to the jury; verdict for the Government. Judgment of condemnation and destruction. Judgment sustained on appeal to Circuit Court of Appeals. Certiorari to United States Supreme Court denied. (F. D. C. Nos. 18885, 19334, 19390, 19583, 19584. Sample Nos. 14487-H, 16974-H, 35005-H, 59633-H, 59634-H.)

LIBELS FILED: Between January 22 and April 2, 1946, Eastern District of Missouri, Northern District of Ohio, and Western District of Pennsylvania.

ALLEGED SHIPMENT: Between the approximate dates of September 26, 1945, and February 26, 1946, by the Salamonie Packing Co., from Warren, Ind., and Holley, N. Y.

PRODUCT: Tomato juice. 2,050 cases at St. Louis, Mo.; 1,397 cases at Cleveland and 1,792 cases at Bryan, Ohio; and 422 cases at Pittsburgh and 860 cases at McKees Rocks, Pa. Each case contained 6 3-quart cans.

LABEL, IN PART: (Portion) "Salamonie [or "Weideman Boy Brand," or "Premier"] Tomato Juice."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of decomposed tomato material.

DISPOSITION: December 17 and 18, 1946. The Salamonie Packing Co. having appeared as claimant, and the cases having been consolidated for trial in the Eastern District of Missouri, the actions were tried to a jury and a verdict for the Government was returned.

On December 20, 1946, judgment of condemnation and destruction was entered. Thereupon, the claimant filed an appeal to the Circuit Court of Appeals for the Eighth Circuit, and on January 6, 1948, the court handed down the following opinion affirming the judgment of the Circuit Court:

SANBORN, *Circuit Judge*: "The Government, pursuant to § 304 (a) of the Federal Food, Drug, and Cosmetic Act of June 25, 1938, 21 U. S. C. A. § 334 (a), instituted five separate libels against certain cases of canned tomato juice shipped in interstate commerce by appellant. In each libel the Government sought the condemnation of the accused tomato juice on the ground that it was adulterated within the meaning of 21 U. S. C. A. § 342 (a) (3), in that it consisted, in whole or in part, of a decomposed substance by reason of the presence of decomposed tomato material. The libels were consolidated. The appellant in its answer denied that its product was 'adulterated,' and alleged that it was 'neither harmful nor poisonous, but good and safe for human consumption.' On motion of the Government, the court struck from the answer the allegation that the juice was fit for human consumption.

"The case was tried to a jury. The Government's evidence showed that the accused tomato juice contained mold and decomposed tomato material. There was no evidence that the juice was unfit for food. Some evidence was introduced by appellant to show that the juice was not offensive to the sense of smell or taste, and that no decomposed material was observable to the naked eye. At the close of the evidence, appellant moved for a directed verdict on the ground that there was no evidence that the accused product was unfit for food. The District Court denied the motion. The jury returned a verdict for the Government. From the judgment and decree, directing the destruction of the tomato juice, this appeal is taken.

"The contentions of appellant are (1) that an article of food must be proved to be unfit for food before it can be adjudged to be 'adulterated' within the meaning of § 342 (a) (3) of Title 21, U. S. C. A., and (2) that evidence of fitness for food is admissible in determining whether an article of food is 'adulterated.'

"The pertinent language of § 342 is as follows:

A food shall be deemed to be adulterated—

(a) * * * (3) if it consists in whole or in part of any filthy, putrid, or decomposed substance, or if it is otherwise unfit for food * * *.

"The following paragraph of appellant's brief concisely states its position relative to this language:

The section of the statute referred to above provides that food is to be deemed adulterated if 'it consists in whole or in part of a filthy, putrid, or decomposed substance, or is otherwise unfit for food.' The last phrase of the above provision 'or is otherwise unfit for food' was placed in the statute when the law was re-enacted in 1938. It is appellant's contention that this phrase qualifies the preceding part of the sentence; and means that the product must not only be decomposed, but must be decomposed to the extent of being unfit for food; and that, therefore, the burden is on the government to prove that the product is unfit for food before the government can demand the destruction of the product.

"Virtually the same argument which appellant makes here was presented to and rejected by the Circuit Court of Appeals of the Tenth Circuit in the case of *United States v. 1851 Cartons, etc.*, 146 F. 2d 760. We think that the court in that case has fully demonstrated that the statute means that food which contains filthy, putrid, or decomposed matter is to be deemed adulterated, whether or not it is fit for food. Apparently, for years, food processors have been endeavoring, unsuccessfully, to secure a ruling which would compel the Government, in cases such as this, to prove that an accused article of food contained so much decomposed matter as to make it unfit for human consumption. See *United States v. Two Hundred cases of Adulterated Tomato Catsup*, (D. C., D. Oregon) 211 F. 780, 782-783 and other cases cited in *United States v. 1851 Cartons, etc.*, supra, page 761 of 146 F. 2d.

"If the statute in question needs amendment, in the public interest, to guard against the possibility of the destruction of wholesome food by the Government, the appellant's remedy is to call the matter to the attention of Congress.

"We conclude that the District Court did not err in ruling that the question

whether the tomato juice was fit for food was not and could not be made an issue in the case.

"The judgment appealed from is affirmed."

The claimant filed a petition for a writ of certiorari to the United States Supreme Court, which was denied on March 29, 1948.

12820. Adulteration of tomato juice. U. S. v. 105 Cases * * *. (F. D. C. No. 21813. Sample No. 81389-H.)

LIBEL FILED: November 5, 1946, District of Oregon.

ALLEGED SHIPMENT: On or about September 29 and October 2, 1946, by the Pacific Fruit & Produce Co., from Walla Walla, Wash.

PRODUCT: 105 cases, each containing 12 1-quart, 14-fluid-ounce cans, of tomato juice at Pendleton, Ore.

LABEL, IN PART: "Corner State Brand Tomato Juice * * * Packed by Wapato Packing Company, Wapato, Washington."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of decomposed tomato material.

DISPOSITION: March 12, 1947. Default decree of condemnation and destruction.

12821. Adulteration and misbranding of fountain sirups. U. S. v. 9 Cases and 12 Bottles * * *. (F. D. C. No. 23176. Sample Nos. 86547-H to 86550-H, incl.)

LIBEL FILED: June 9, 1947, Eastern District of Illinois.

ALLEGED SHIPMENT: On or about September 13 and November 2, 1946, by the A. W. Mendenhall Co., from Dallas, Tex.

PRODUCT: Fountain sirups. 9 cases, each containing 4 1-gallon bottles, and 12 1-gallon bottles, at East St. Louis, Mo.

LABEL, IN PART: "Lone Star Fountain Strawberry Syrup [or "Vanilla Syrup," "Cherry Syrup," or "Pineapple Syrup"]."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), artificially flavored and colored acidulated solutions of sugars, corn sirup, water, and sodium benzoate, containing less soluble solids than are contained in fountain fruit sirups, had been substituted for fountain strawberry sirup, vanilla sirup, cherry sirup, and pineapple sirup, respectively, which the articles were represented to be.

Misbranding, Section 403 (a), the label designations, "Fountain Strawberry Syrup," "Vanilla Syrup," "Cherry Syrup," or "Pineapple Syrup," were false and misleading.

DISPOSITION: July 2, 1947. Default decree of condemnation. The products were delivered to a charitable institution.

Nos. 12822 to 12829 report actions involving wine that contained monochloroacetic acid, which is a poisonous and deleterious substance that is unsafe within the meaning of the law, since it is a substance not required in the production of the article and could have been avoided by good manufacturing practice.

12822. Adulteration of wine. U. S. v. 144 Cases, etc. (and 32 other seizure actions). (F. D. C. Nos. 22247, 22249, 22250, 22444, 22452, 22464, 22465, 22480 to 22486, incl., 22491 to 22494, incl., 22515, 22525, 22526, 22605, 22752, 22753, 22785, 22786, 22822, 22824, 22829, 22834, 22849, 22850, 22993. Sample Nos. 14918-H to 14923-H, incl., 14996-H to 14999-H, incl., 15508-H, 15509-H, 40081-H, 40082-H, 40557-H to 40559-H, incl., 48834-H, 50519-H, 51982-H, 51983-H, 52788-H to 52790-H, incl., 52792-H to 52795-H, incl., 52797-H, 53655-H, 53656-H, 53672-H, 53841-H, 53845-H to 53848-H, incl., 53943-H, 53944-H, 53949-H to 53955-H, incl., 54041-H, 54116-H, 54117-H, 69098-H, 69333-H to 69336-H, incl., 69834-H, 73120-H to 73124-H, incl., 73667-H, 77041-H, 77050-H to 77052-H, incl., 77056-H, 77057-H, 77107-H to 77110-H, incl.)

LIBELS FILED: Between January 29 and April 30, 1947, Eastern District of Kentucky, Eastern and Western Districts of Wisconsin, Northern and Southern Districts of Indiana, Northern and Southern Districts of Ohio, Eastern District of Missouri, Eastern and Western Districts of Michigan, District of Minnesota, and Western and Northern Districts of Texas.

ALLEGED SHIPMENT: Between the approximate dates of June 25, 1946, and January 22, 1947, by the Wine Corporation of America, from Chicago, Ill.

PRODUCT: 5,621 cases and 9 ½-gallon jugs of wine at Covington, Ky.; Milwaukee, Wisconsin Rapids, La Crosse, and Stevens Point, Wis.; South Bend, Indianapolis, and Gary, Ind.; Cincinnati, Toledo, Cleveland, Akron, Canton, Dayton, Lorain, Chillicothe, and Columbus, Ohio; St. Louis, Mo.; Lansing, Grand Rapids, and Bay City, Mich.; Minneapolis, Minn.; and San Antonio and Dallas, Tex. The cases contained 24 1-pint bottles, 12 fifth-gallon bottles, 6 ½-gallon bottles, or 4 1-gallon jugs of the product.

Analyses disclosed that the various lots of the product contained monochloroacetic acid in amounts ranging from 57 to 432 parts per million.

LABEL, IN PART: "American Mogen David Wine A Sweet Kosher Grape Wine," "Barloma American Blackberry [or "White," or "Red"] Sweet Wine," "Barloma" American Blackberry [or "White"] Sweet Wine Produced & Bottled by California Wine Co., Chicago," "Mogen David American Blackberry Wine," "American Mogen David Wine A Sweet Kosher Grape Wine Produced and Bottled at the winery by California Wine Company, Chicago," "Barloma Brand American Light Port Wine," or "Blended Barloma Brand American Muscat [or "Light Sherry"] Wine * * * Bottled by California Wine Co., Chicago, Ill."

NATURE OF CHARGE: Adulteration, Section 402 (a) (2), the article contained an added poisonous and deleterious substance, monochloroacetic acid, which is unsafe within the meaning of Section 406.

DISPOSITION: Between February 28 and October 29, 1947. Default decrees of condemnation and destruction.

12823. Adulteration of wine. U. S. v. 129 Cases, etc. (and 7 other seizure actions). (F. D. C. Nos. 22451, 22466, 22514, 22522, 22751, 22754, 22845, 22846, 22992. Sample Nos. 12877-H to 12879-H, incl., 53176-H, 53177-H, 67517-H, 67518-H, 67542-H, 69835-H to 69840-H, incl., 69878-H, 73125-H, 73126-H, 73128-H to 73131-H, incl., 73478-H to 73480-H, incl., 77058-H to 77061-H, incl., 77072-H to 77076-H, incl.)

LIBELS FILED: Between the approximate dates of February 4 and April 25, 1947, Western District of Missouri, Northern and Southern Districts of Ohio, Eastern District of Michigan, and Western District of Wisconsin.

ALLEGED SHIPMENT: Between the approximate dates of February 20, 1946, and January 7, 1947, by the California Wine Co. and its successor, the Wine Corporation of America, from Chicago, Ill.

PRODUCT: 1,929 cases of wine at Kansas City, Mo.; Columbus and Cleveland, Ohio; Lansing, Mich.; and Stevens Point, Eau Claire, Rhinelander, and Superior, Wis. The cases contained 24 1-pint bottles, 12 ½-gallon bottles, 6 ½-gallon bottles, or 4 1-gallon bottles of the product. Analysis disclosed that the various lots contained monochloroacetic acid in amounts ranging from 108 to 367 parts per million.

LABEL, IN PART: "American Mogen David Wine A Sweet Kosher Grape Wine," or "Barloma American Blackberry [or "White," or "Red"] Sweet Wine."

NATURE OF CHARGE: Adulteration, Section 402 (a) (2), the article contained an added poisonous and deleterious substance, monochloroacetic acid, which is unsafe within the meaning of Section 406.

DISPOSITION: Between March 6 and July 16, 1947. Ambrose & Co. having appeared as claimant for the Missouri lot, and no claimant having appeared for the other lots, judgments of condemnation were entered. The Missouri lot of the product was ordered released under bond for the destruction of the contents of the bottles and the salvaging of the bottles and the cases, and the other lots were ordered destroyed.

12824. Adulteration of wine. U. S. v. 78 Cases * * * (and 5 other seizure actions). (F. D. C. Nos. 22553, 22590, 22639, 22767, 22953, 23059. Sample Nos. 65773-H, 69726-H, 69731-H to 69734-H, incl., 73135-H, 73604-H, 77349-H.)

LIBELS FILED: Between February 20 and May 29, 1947, District of Minnesota, Southern and Northern Districts of Ohio, Eastern District of Michigan, and Eastern District of Pennsylvania.

ALLEGED SHIPMENT: Between the approximate dates of June 19, 1946, and January 3, 1947, by the Monte Cassino Wine Co., from Covington, Ky., and Cincinnati, Ohio.

PRODUCT: Wine. 78 cases at Minneapolis, Minn., 303 cases at Detroit, Mich., 684 cases at Philadelphia, Pa., and 23 cases at Canton, Ohio, each case containing 12 $\frac{1}{5}$ -gallon bottles; 15 47-gallon barrels at Cincinnati, Ohio; and 33 cases, each containing 6 $\frac{1}{2}$ -gallon bottles, at Lansing, Mich.

LABEL, IN PART: "American Blackberry Wine Monte Cassino," "Sweet 16 Brand American Light Port Wine [or "White Port Wine"]," "American Blackberry Wine," "Monte Cassino Special Reserve American Red Wine," or "White Wine Alcohol 12 Percent."

NATURE OF CHARGE: Adulteration, Section 402 (a) (2), the product contained an added poisonous and deleterious substance, monochloroacetic acid, which is unsafe within the meaning of Section 406.

DISPOSITION: Between May 26 and December 22, 1947. Default decrees of condemnation and destruction.

12825. Adulteration of wine. U. S. v. 5 Kegs, etc. (and 1 other seizure action).
(F. D. C. Nos. 22622, 22807. Sample Nos. 68062-H, 68076-H.)

LIBELS FILED: March 18 and April 10, 1947, District of Nebraska.

ALLEGED SHIPMENT: On or about May 8, 1945, by the Bisceglia Brothers Wine Co., from Wahtoke, Calif.

PRODUCT: Wine. 5 kegs, each containing 28 gallons; 29 kegs, each containing 47 gallons; 39 cases, each containing 4 1-gallon jugs; and 18 cases, each containing 12 $\frac{1}{5}$ -gallon bottles, at Omaha, Nebr.

LABEL, IN PART: "Wine Burgundy," "Salute Brand Special Reserve Excellent California Burgundy Wine," or "Claret."

NATURE OF CHARGE: Adulteration, Section 402 (a) (2), the product contained an added poisonous and deleterious substance, monochloroacetic acid, which is unsafe within the meaning of Section 406.

DISPOSITION: June 2, 1947. Default decrees of condemnation and destruction.

12826. Adulteration of wine. U. S. v. 3 Cases * * *. (F. D. C. No. 22965.
Sample No. 64941-H.)

LIBEL FILED: April 28, 1947, District of Connecticut.

ALLEGED SHIPMENT: On or about January 22, 1947, by the Monarch Wine Co., Inc., from Brooklyn, N. Y.

PRODUCT: 3 cases, each containing 6 $\frac{1}{2}$ -gallon bottles, of grape wine at Hartford, Conn.

LABEL, IN PART: "Monarch's Manischewitz American Sacramental Sweet Grape Wine."

NATURE OF CHARGE: Adulteration, Section 402 (a) (2), the article contained an added poisonous and deleterious substance, monochloroacetic acid, which is unsafe within the meaning of Section 406.

DISPOSITION: July 30, 1947. Default decree of condemnation and destruction.

12827. Adulteration of wine. U. S. v. 29 Cases * * *. (F. D. C. No. 23004.
Sample Nos. 76405-H to 76407-H, incl.)

LIBEL FILED: On or about May 1, 1947, Eastern District of Louisiana.

ALLEGED SHIPMENT: On or about May 27, 1946, by the S. Schilling Co., from Muir Station, Calif.

PRODUCT: Wine. 22 cases, each containing 6 $\frac{1}{2}$ -gallon jugs; 5 cases, each containing 4 1-gallon jugs; and 2 cases, each containing 12 $\frac{1}{5}$ -gallon bottles.

LABEL, IN PART: "Vinehill Vino Rosso A Light Wine."

NATURE OF CHARGE: Adulteration, Section 402 (a) (2), the article contained an added poisonous and deleterious substance, monochloroacetic acid, which is unsafe within the meaning of Section 406.

DISPOSITION: July 28, 1947. Default decree of condemnation and destruction.

12828. Adulteration of wine. U. S. v. 333 Cases * * *. (F. D. C. No. 22911.
Sample No. 40086-H.)

LIBEL FILED: April 9, 1947, District of New Jersey.

ALLEGED SHIPMENT: On or about March 14, 1947, by the Security Liquor Co., from St. Louis, Mo. This was a return shipment in possession of the original shipper, the Guttenberg Wine Co., Guttenberg, N. J.

PRODUCT: 333 cases, each containing 12 $\frac{1}{5}$ -gallon bottles, of wine at Guttenberg, N. J.

LABEL, IN PART: (Bottles) "Shepard J. Goldberg Brand * * * New York State Concord Grape Wine * * * Bottled By Guttenberg Wine Co."

NATURE OF CHARGE: Adulteration, Section 402 (a) (2), the article contained an added poisonous and deleterious substance, monochloracetic acid, which is unsafe within the meaning of Section 406.

DISPOSITION: May 20, 1947. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

12829. Adulteration of wine. U. S. v. 19 Cases * * *. (F. D. C. No. 22816. Sample No. 50526-H.)

LIBEL FILED: April 7, 1947, Southern District of Mississippi.

ALLEGED SHIPMENT: On or about December 11, 1946, by Gus Blancand Wholesale Liquors, from New Orleans, La.

PRODUCT: 16 cases, each containing 6 $\frac{1}{2}$ -gallon bottles, and 3 cases, each containing 12 $\frac{1}{5}$ -gallon bottles, of wine at Biloxi, Miss.

LABEL, IN PART: "Vinehill Vino Rosso A Light Wine Bottled By Vinehill Winery, Martinez, Calif."

NATURE OF CHARGE: Adulteration, Section 402 (a) (2), the article contained an added poisonous and deleterious substance, monochloracetic acid, which is unsafe within the meaning of Section 406.

DISPOSITION: June 6, 1947. Default decree of condemnation and destruction.

12830. Adulteration of beverage bases. U. S. v. C. O. & W. D. Sethness Co. and Walter D. Sethness. Pleas of guilty. Fine, \$800 and costs. (F. D. C. No. 22068. Sample Nos. 45438-H, 45556-H to 45559-H, incl., 50945-H, 59251-H, 59252-H.)

INFORMATION FILED: June 4, 1947, Northern District of Illinois, against the C. O. & W. D. Sethness Co., a corporation, Chicago, Ill., and Walter D. Sethness, secretary-treasurer.

ALLEGED SHIPMENT: Between the approximate dates of March 27, 1945, and February 12, 1946, from the State of Illinois into the States of California, Minnesota, and Oregon.

LABEL, IN PART: "Golden Dawn Orange Base [or "Lemonade"]," "Cosco Dairy Orange [or "Still Grape"]," or "Derby Grapefruit Beverage Base."

NATURE OF CHARGE: Adulteration, Section 402 (a) (2), the products contained an added poisonous and deleterious substance, monochloracetic acid, which is unsafe within the meaning of the law, since it is not required in the production of the food and could have been avoided by good manufacturing practice.

DISPOSITION: June 25, 1947. Pleas of guilty having been entered, the defendants were fined \$800, plus costs.

12831. Adulteration of beverage bases. U. S. v. 2 Barrels * * *. (F. D. C. No. 22330. Sample Nos. 53907-H, 53908-H.)

LIBEL FILED: December 30, 1946, Northern District of Ohio.

ALLEGED SHIPMENT: On or about August 20, 1946, by O'Donnell & Co., from Chicago, Ill.

PRODUCT: 1 20-gallon barrel of grape beverage base and 1 20-gallon barrel of orange beverage base at Norwalk, Ohio.

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), saccharin, which has no food value, had been substituted in whole or in part for sugar in the articles; and, Section 402 (b) (4), saccharin had been mixed and packed with the articles so as to reduce their quality or strength and make them appear better and of greater value than they were.

DISPOSITION: March 13, 1947. No claimant having appeared, judgment of condemnation was entered and the products were ordered destroyed.

12832. Adulteration of beverage sirups and sundae topping. U. S. v. 10 Cases, etc. (F. D. C. No. 22746. Sample Nos. 54700-H, 55301-H, 55303-H, 55304-H.)

LIBEL FILED: April 2, 1947, Southern District of Georgia.

ALLEGED SHIPMENT: On or about September 11, 1946, by the Howard's Syrups Co., from Miami, Fla.

PRODUCT: 28 cases, each containing 24 1-pint bottles, of beverage sirups and 3 cases, each containing 6 ½-gallon jars, of sundae topping at Brunswick, Ga.

LABEL, IN PART: "Howard's Beverage Syrup Thirst Quenchers Flavored Syrup Wild Cherry [or "Strawberry," or "Pineapple"] * * *"; (In small type on side panel) "Prepared with cane sugar, filtered water, citric acid, certified food coloring and imitation fruit flavoring 1/10 of 1% Benzoate," and "Chop Suey Topping."

NATURE OF CHARGE: Adulteration (Chop Suey Topping), Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of larvae, and of a decomposed substance by reason of being fermented.

Misbranding (beverage sirups), Section 403 (a), the label designations, "Flavored Syrup Wild Cherry," "Flavored Syrup Strawberry," and "Flavored Syrup Pineapple," were false and misleading, since the products were acidulated, artificially flavored and colored sugar solutions; Section 403 (c), the products were imitations of other foods, and their labels failed to bear, in type of uniform size and prominence, the word "Imitation" and immediately thereafter, the name of the food imitated; and, Section 403 (e) (2), they failed to bear a label containing an accurate statement of the quantity of the contents.

DISPOSITION: May 10, 1947. Default decree of condemnation. The Chop Suey Topping was ordered destroyed, and the beverage bases were ordered delivered to a charitable organization or destroyed.

12833. Misbranding of Esterex. U. S. v. 12 Bottles of Esterex. Tried to the court. Decree of condemnation and destruction. (F. D. C. No. 18010. Sample No. 22198-H.)

LIBEL FILED: October 22, 1945, Eastern District of Missouri.

ALLEGED SHIPMENT: On or about July 31, 1945, by the C. O. & W. D. Sethness Co., from Chicago, Ill.

PRODUCT: 12 bottles of Esterex at St. Louis, Mo. Analysis showed that the article was an aqueous solution containing about 15 grams of monochloroacetic acid per 100 cc.

LABEL, IN PART: "Cosco Esterex * * * a buffered aqueous solution of monochloroacetic acid and its selected esters, salt, and glycerine. Directions—For stabilizing purposes use ½ ounce to each gallon of bottling syrup, or to 6 gallons of finished drink."

NATURE OF CHARGE: Misbranding, Section 403 (a), the labeling of the article was misleading, since the trade mark "Esterex" coupled with the directions for use, represented to purchasers that the article was wholesome and suitable for use as a component of beverages for man, whereas the article contained about 15 grams of monochloroacetic acid per 100 cc., which acid is a poisonous and deleterious substance, and the labeling failed to reveal the material fact, in the light of the representations in the labeling, that the article contained a poisonous and deleterious substance.

DISPOSITION: The C. O. & W. D. Sethness Co., claimant, having filed a motion for the removal of the case to a district within reasonable proximity to the claimant's principal place of business, an order was entered on December 11, 1945, overruling such motion. Subsequently, a motion for rehearing was filed by the claimant, and on January 15, 1946, the motion was overruled with the consent of the claimant. On January 21, 1946, an answer was filed by the claimant, denying that the product was misbranded. Thereafter, the case came on for trial before the court, and at its conclusion and after consideration of the evidence and briefs of the parties, the court on May 2, 1946, handed down the following findings of fact and conclusions of law:

DUNCAN, *District Judge*:

FINDINGS OF FACT

"1. The United States Marshal on October 23, 1945, seized twelve bottles labeled in part 'Cosco Esterex' in the possession of Moore Brothers Bottling Company, 1711 North Spring Avenue, St. Louis, Missouri, within the Eastern Division, Eastern Judicial District of Missouri.

"2. The C. O. and W. D. Sethness Company, a Corporation organized and existing under the laws of the State of Illinois, Claimant herein, is the owner of the article seized herein.

"3. The C. O. and W. D. Sethness Company, Claimant herein, shipped said article seized herein in interstate commerce from Chicago, Illinois to St. Louis, Missouri, via Hayes Freight Lines on or about July 31, 1945.

"4. When the said article was shipped in interstate commerce, each bottle was labeled: 'Cosco Esterex—Trade Mark—Manufactured Exclusively by C. O. and W. D. Sethness Company—1926 Sunnyside Avenue, Chicago 40, Illinois—Esterex is a buffered aqueous solution of monochloracetic acid and its selected esters, salt, and glycerine—Directions—For stabilizing purposes use $\frac{1}{2}$ ounce to each gallon of bottling syrup, or to 6 gallons of finished drink—Follow Directions Carefully—Caution—Esterex is not a finished food and should not be taken internally in its present concentration. In common with many acid solutions of low p. h., care should be taken to avoid spillage or breakage. If Esterex in its undiluted form comes in contact with skin or clothing, wash immediately with warm water and then with a solution of baking soda or other mild alkali.'

"5. The said article seized herein contains 15 grams of monochloracetic acid per 100 cubic centimeters.

"6. Monochloracetic Acid is a poisonous, toxic and caustic substance.

"7. The said article seized herein is intended by its producer, claimant herein, to be used as a stabilizer or preservative of liquids for human consumption, that the producer sells 'Cosco Esterex' only to manufacturers for use as a stabilizer for liquids for human consumption and does not sell to wholesalers or retailers for resale or to the consuming public.

"8. The label contained on each bottle of said article represents to purchasers that the said article is to be used as a stabilizer of liquids for human consumption.

"9. There is no indication on the label that the said article is poisonous or deleterious to public health.

"10. There is nothing on the label to indicate that monochloracetic acid is poisonous, and the label does not sufficiently caution the careless, the unthinking or the ignorant of the fact that the said article contains a poisonous, toxic and caustic substance.

"11. On the label under the Caption 'Caution' appears 'ESTEREX is not a finished food and should not be taken internally in its present concentration. In common with many acid solutions of low p. h., care should be taken to avoid spillage or breakage.' And in smaller type: 'If Esterex in its undiluted form comes in contact with skin or clothing, wash immediately with warm water and then with a solution of baking soda or other mild alkali.' However, there is no indication on the label as to what the effect of spilling this solution on clothing or skin may be, or what the object of washing may be or that the said article may be poisonous or deleterious to public health.

"12. Although the said article is sold only to manufacturers of soft drinks to be used as a stabilizer all manufacturers of soft drinks are not informed as to the properties of monochloracetic acid and the label would not inform them that the said article contained a poisonous substance.

"13. Although there is no statement on the label which is untrue, the label is misleading in that it fails to reveal that the said article contains a poisonous, toxic and caustic substance and such fact is material in the light of the representation that said article is to be used as a component of liquids for human consumption.

CONCLUSIONS OF LAW

"1. The label appearing on each bottle of said article is labeling within the meaning of the Food, Drug and Cosmetic Act of 1938, as amended. (21 U. S. C. A. 321 (m))

"2. The said article is a component of food and is therefore a food. (21 U. S. C. A. 321 (f))

"3. In determining whether labeling is misleading there shall be taken into account whether the labeling fails to reveal any fact material in the light of representations made on the labeling or material with respect to consequences which may result from the use of the article to which the labeling relates under the conditions of use prescribed in the labeling thereof or under such conditions of use as are customary or usual. (21 U. S. C. A. 321 (n))

"4. As said in *United States v. 62 Packages * * * Marmola Tablets*, 48 Fed. Supp. 878, l. c. 887:

The Federal Food Drug and Cosmetic Act was not made for experts nor is it intended to prevent self-medication. The purpose of the law is to protect the public, the vast multitude which includes the ignorant, the unthinking and the credulous, who, when making a purchase, do not stop to analyze.

"5. The labeling on said article is misleading in that it fails to reveal that the said article contains a poisonous, toxic and caustic substance and said fact is material in the light of the representation that said article is to be used as a component of liquids for human consumption.

"6. The labeling in the cause herein is misleading and should contain the definite information that monochloroacetic acid is poisonous.

"7. The said article seized herein was misbranded while in interstate commerce.

"8. The said article was seized in the Eastern District of Missouri, Eastern Division.

"9. On the facts heretofore found, Libellant is entitled to condemnation and forfeiture of said article and for costs to be assessed against the claimant."

On May 2, 1946, judgment of condemnation was entered and the product was ordered destroyed. A motion for a new trial and a motion to amend the findings of fact and conclusions of law was subsequently filed on behalf of the claimant, but were overruled by the court on June 14, 1946.

12834. Misbranding of Esterex. U. S. v. 4 Jugs * * * (and 1 other seizure action). (F. D. C. Nos. 20615, 20634. Sample Nos. 45206-H, 49056-H.)

LIBELS FILED: August 8 and 20, 1946, Northern District of Texas and Southern District of California.

ALLEGED SHIPMENT: On or about July 19, September 21, and October 12, 1945, by the C. O. & W. D. Sethness Co., from Chicago, Ill.

PRODUCT: Esterex. 4 1-gallon jugs at Abilene, Tex., and 64 1-gallon bottles at Fowler, Calif.

LABEL, IN PART: "Cosco Esterex * * * Aqueous Solution of Monochloroacetic Acid."

NATURE OF CHARGE: Misbranding, Section 403 (a), the labeling of the article was misleading, since the trade mark "Esterex" coupled with the directions for use, represented to purchasers that the article was wholesome and suitable for use as a component of beverages, whereas the article contained in one shipment about 19 percent and in the other shipment about 25 percent, of monochloroacetic acid, a poisonous and deleterious substance; and the labeling failed to reveal the material fact that the article contained a poisonous and deleterious substance.

DISPOSITION: November 26 and December 18, 1946. No claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

12835. Misbranding of sugar extender. U. S. v. 1 Pail * * * (and 1 other seizure action). (F. D. C. Nos. 22571, 23638. Sample Nos. 54297-H, 81831-H.)

LIBELS FILED: February 27 and August 26, 1947, District of Idaho and Southern District of Florida.

ALLEGED SHIPMENT: On or about November 15, 1946, and January 10, 1947, by the Vitaplex Co., from Chicago, Ill.

PRODUCT: Sugar extender. 1 3-gallon pail at St. Maries, Idaho, and 1 3-gallon pail at Belle Glade, Fla.

LABEL, IN PART: "Vitaplex Brand Single Strength Sugar Extender. Not a Saccharin Product 1 Gal. Vitaplex replaces 230 lbs. of sugar. Usable in all

beverages. Half and half with sugar syrup 2 ozs. of Vitaplex replaces 3 lbs. and 9 ozs. of sugar * * * Ingredients—Phenetylurea, Propylene Glycol and Alcohol Chemically Pure Without Food Value."

NATURE OF CHARGE: Misbranding, Section 403 (a), the label statement "Sugar Extender * * * 1 Gal. Vitaplex replaces 230 lbs. of sugar. Usable in all beverages. Half and half with sugar syrup 2 ozs. of Vitaplex replaces 3 lbs. and 9 ozs. of sugar" was false and misleading, since the product was an artificial, nonnutritive sweetener and had no food value, and it did not replace or extend sugar; and the label statement "Not a Saccharin Product" was misleading, since it failed to reveal with equal conspicuousness the fact that the product contained dulcin, a nonnutritive sweetener similar to saccharin.

DISPOSITION: April 14 and October 24, 1947. Default decrees of forfeiture and destruction.

CEREALS AND CEREAL PRODUCTS

BAKERY PRODUCTS

12836. Adulteration of bread. U. S. v. Leonard E. Richardson and Gladys F. Richardson (Richardson Baking Company). Pleas of guilty. Defendants fined \$1,000 and \$750, respectively. (F. D. C. No. 23314. Sample No. 54080-H.)

INFORMATION FILED: August 5, 1947, Southern District of Ohio, against Leonard E. Richardson and Gladys F. Richardson, trading as the Richardson Baking Company, at Marietta, Ohio.

ALLEGED SHIPMENT: On or about April 2, 1947, from the State of Ohio into the State of West Virginia.

LABEL, IN PART: "Sliced Sunfed Bread Rich-Loaf."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a filthy substance by reason of the presence of insect fragments and rodent hair fragments; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

Disposition: September 26, 1947. Pleas of guilty having been entered, Leonard E. Richardson was fined \$1,000, and Gladys F. Richardson was fined \$750.

12837. Adulteration of bread, cake, and rolls. U. S. v. Schouten's Bakery, Inc., and Hubert Schouten and Chester B. Schouten. Pleas of guilty. Corporation fined \$30 and costs; each individual fined \$30. F. D. C. No. 23303. Sample Nos. 77429-H to 77431-H, incl.)

INFORMATION FILED: July 23, 1947, Southern District of Iowa, against Schouten's Bakery, Inc., Keokuk, Iowa, and Hubert Schouten, president-treasurer, and Chester B. Schouten, secretary and vice-president, of the corporation.

ALLEGED SHIPMENT: On or about March 22, 1947, from the State of Iowa into the State of Illinois.

LABEL, IN PART: (Bread and cake) "Sunrise Bread," "Schouten's Bread Whole Wheat," or "Schouten's Coffee Cake." The rolls were unlabeled.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the products consisted in part of filthy substances by reason of the presence of insects, insect fragments, rodent hair fragments, and a hair resembling cat hair; and, Section 402 (a) (4), they had been prepared and packed under insanitary conditions whereby they may have become contaminated with filth.

DISPOSITION: October 28, 1947. Pleas of guilty having been entered on behalf of the defendants, the corporation was fined \$30 and costs, and each individual defendant was fined \$30.

12838. Adulteration of cookies. U. S. v. United Biscuit Company of America (Keebler-Weyl Baking Company, Division of United Biscuit Company of America), and John Y. Huber, Jr., and John C. Baxter. Pleas of nolo contendere by corporation and not guilty by individuals. Corporation fined \$5,000; individuals found not guilty. (F. D. C. No. 23593. Sample Nos. 4692-H, 4699-H, 7192-H, 7193-H, 90850-H.)

INFORMATION FILED: November 21, 1947, against United Biscuit Company of America, trading as the Keebler-Weyl Baking Company, Division of United Biscuit Company of America, at Philadelphia, Pa., and John Y. Huber, Jr., vice-president, and John C. Baxter, plant superintendent.

ALLEGED SHIPMENT: On or about April 23 and May 5 and 7, 1947, from the State of Pennsylvania into the States of Delaware, Connecticut, and New Jersey.

LABEL, IN PART: "Black Walnut Cookies [or "Cheese Wafers," "Saltines," or "Butter Flavored Thins"] by Keebler."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the products consisted in whole or in part of filthy substances by reason of the presence of insect fragments and rodent hair fragments; and, Section 402 (a) (4), they had been prepared under insanitary conditions whereby they may have become contaminated with filth.

DISPOSITION: December 22, 1947. Pleas of not guilty having been entered on behalf of the individuals, and a plea of nolo contendere having been entered on behalf of the corporation, the court fined the corporation \$5,000 and found the individuals not guilty.

12839. Adulteration of cookies. U. S. v. Dortch Baking Company. Plea of nolo contendere. Fine, \$2,000. (F. D. C. No. 24090. Sample Nos. 26310-K, 26808-K to 26812-K, incl.)

INFORMATION FILED: February 16, 1948, Western District of Tennessee, against the Dortch Baking Company, a corporation, Memphis, Tenn.

ALLEGED SHIPMENT: On or about September 6, 10, and 11, 1947, from the State of Tennessee into the States of Arkansas and Missouri.

LABEL, IN PART: (Portion) "Vanilla Dortch's Wafers," "Plain Cookies," "Dortch's Sandwich," or "Oatmeal Cookies."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the products consisted in part of filthy substances by reason of the presence of insects, insect fragments, and rodent hair fragments; and, Section 402 (a) (4), they had been prepared and packed under insanitary conditions whereby they may have become contaminated with filth.

DISPOSITION: March 2, 1948. A plea of nolo contendere having been entered on behalf of the defendant, a fine of \$2,000 was imposed.

12840. Adulteration of cookies. U. S. v. 148 Cases * * *. (F. D. C. No. 24501. Sample Nos. 13204-K, 13205-K.)

LIBEL FILED: March 22, 1948, Northern District of Ohio.

ALLEGED SHIPMENT: On or about March 5, 1948, by Town Talk Industries, from Phoenixville, Pa.

PRODUCT: 148 cases, each containing 48 4-ounce packages, of cookies at Cleveland, Ohio.

LABEL, IN PART: "Mrs. Hubbell's American Lady Vanilla Cream [or "Chocolate"] Cookies."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insect fragments and rodent hair fragments; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: April 29, 1948. Default decree of condemnation and destruction.

12841. Adulteration of cookies. U. S. v. 7 Cartons, etc. (F. D. C. No. 24209. Sample Nos. 2633-K, 2634-K, 2636-K.)

LIBEL FILED: December 22, 1947, District of Columbia.

ALLEGED SHIPMENT: On or about November 6, 1947, by the Garden State Biscuit Co., Inc., from Patterson, N. J.

PRODUCT: Cookies. 7 17½-pound cartons; 2 cartons, each containing 8 2½-pound boxes; and 118 cartons, each containing 1 1-pound, 6-ounce can, at Washington, D. C.

LABEL, IN PART: "Cocoanut Macaroons," "Iced Jumbles," or "Chocolate Bit Cookies."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the articles consisted in whole or in part of filthy substances by reason of the presence of insects, insect fragments, and rodent hair fragments; and, Section 402 (a) (4), they

had been prepared under insanitary conditions whereby they may have become contaminated with filth.

DISPOSITION: April 2, 1948. Default decree of condemnation. The products were ordered delivered for the use of the National Zoological Park.

12842. Adulteration of peanut cheese sandwiches. U. S. v. 117 Cartons * * *. (F. D. C. No. 23170. Sample No. 66438-H.)

LIBEL FILED: June 5, 1947, District of New Jersey.

ALLEGED SHIPMENT: On or about May 9, 1947, by the Logan Square Packers, from Philadelphia, Pa.

PRODUCT: 117 cartons, each containing 24 1-ounce packages, of peanut cheese sandwiches at Trenton, N. J.

LABEL, IN PART: "Logan Square Peanut Cheese Sandwiches."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insect fragments and rodent hair fragments; and, Section 402 (a) (4), the cracker component of the article had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: July 16, 1947. Default decree of condemnation and destruction.

12843. Adulteration of pretzels. U. S. v. 8 Cases, etc. (F. D. C. No. 23877. Sample Nos. 13018-K, 13019-K.)

LIBEL FILED: On or about November 13, 1947, District of New Jersey.

ALLEGED SHIPMENT: On or about October 14, 1947, by Perfect Foods, Inc., from Lansdale, Pa.

PRODUCT: 8 cases, each containing 48 8-ounce cartons, and 7 cases, each containing 24 1-pound cartons, of pretzels at Runnemede, N. J.

LABEL, IN PART: "Tritzels Toasted Pretzels."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insect parts and rodent hairs; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: January 16, 1948. Default decree of condemnation. The product was ordered delivered to Camden County Farm, Lakeland, N. J.

FLOUR

12844. Adulteration of flour. U. S. v. Tex-O-Kan Flour Mills Co. (Morten Milling Company), and Stein F. Willits. Pleas of nolo contendere. Corporation fined \$2,500; imposition of sentence against individual withheld. (F. D. C. No. 23332. Sample Nos. 41048-H, 50401-H, 50405-H.)

INFORMATION FILED: February 20, 1948, Northern District of Texas, against the Tex-O-Kan Flour Mills Co., a corporation, trading as the Morten Milling Co., Dallas, Tex., and Stein F. Willits, general mill superintendent.

ALLEGED SHIPMENT: On or about April 2, 5, and 8, 1947, from the State of Texas into the States of Louisiana and Tennessee.

LABEL, IN PART: "Hi-Kick Flour," or "Drinkwater Semi-Short Bakers Flour."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a filthy substance by reason of the presence of insect fragments and insect excreta.

DISPOSITION: February 27, 1948. Pleas of nolo contendere having been entered, the corporation was fined \$2,500, and imposition of sentence against the individual was withheld.

12845. Adulteration of flour. U. S. v. Berlin Milling Co., Inc., and Benjamin P. Quillin. Pleas of guilty. Each defendant fined \$100, plus costs. (F. D. C. No. 24054. Sample Nos. 3105-K to 3109-K, incl.)

INFORMATION FILED: December 5, 1947, District of Maryland, against the Berlin Milling Co., Inc., Salisbury, Md., and Benjamin P. Quillin, secretary and superintendent.

ALLEGED SHIPMENT: On or about September 4, 8, 16, and 17, 1947, from the State of Maryland into the States of Virginia and Delaware.

LABEL, IN PART: "Berlin's Best Flour."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a filthy substance by reason of the presence of insect fragments, mites, an insect seta, a cast skin, and rodent hair fragments; and, Section 402 (a) (4), it had been prepared and packed under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: March 19, 1948. Pleas of guilty having been entered, the defendants were each fined \$100, plus costs.

12846. Adulteration of phosphated flour and corn meal. U. S. v. Moore Milling Company, Inc. Plea of nolo contendere. Fine, \$300. (F. D. C. No. 23594. Sample Nos. 85637-H to 85641-H, incl.)

INFORMATION FILED: November 14, 1947, Western District of Virginia, against the Moore Milling Co., Inc., Salem, Va.

ALLEGED SHIPMENT: On or about May 1, 27, 29, and 31, 1947, from the State of Virginia into the State of West Virginia.

LABEL, IN PART: "Sunny Land * * * Phosphated Flour," or "Fresh Water Ground Corn Meal."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a filthy substance by reason of the presence of insect parts and fragments, mites, insect larvae, rodent excreta pellet fragments, rodent hair fragments, and a feather fragment; and, Section 402 (a) (4), it had been prepared and packed under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: January 7, 1948. A plea of nolo contendere having been entered on behalf of the defendant, a fine of \$300 was imposed.

12847. Adulteration of whole wheat flour. U. S. v. 125 Bags * * *. (F. D. C. No. 23069. Sample No. 70027-H.)

LIBEL FILED: June 18, 1947, Northern District of Illinois.

ALLEGED SHIPMENT: On or about May 6, 1947, by Old Fashioned Millers, Inc., from St. Paul, Minn.

PRODUCT: 125 100-pound bags of whole wheat flour at Chicago, Ill.

LABEL, IN PART: "Old-Style 100% Whole Wheat Flour Enright's All O The Wheat."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insects, insect fragments, and rodent hairs; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: October 8, 1947. Old Fashioned Millers, Inc., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond for conversion into stock feed, under the supervision of the Federal Security Agency.

MACARONI AND NOODLE PRODUCTS

12848. Adulteration of macaroni products. U. S. v. Roma Macaroni Factory, a corporation, and Albert Martinelli and Dominic Louis Gerbo. Pleas of not guilty. Trial before a jury. During trial, pleas of not guilty withdrawn by Roma Macaroni Factory and Dominic Louis Gerbo, and pleas of guilty entered on their behalf; motion for dismissal of case against Albert Martinelli. Roma Macaroni Factory fined \$10,000; Dominic Louis Gerbo fined \$5,000; and action against Albert Martinelli dismissed. (F. D. C. No. 23337. Sample Nos. 62462-H, 62488-H, 62489-H.)

INDICTMENT RETURNED: September 17, 1947, Northern District of California, against the Roma Macaroni Factory, a corporation, San Francisco, Calif., and Albert Martinelli, superintendent, and Dominic Louis Gerbo, production manager.

ALLEGED SHIPMENT: On or about December 27, 1946, from the State of California into the State of Nevada.

LABEL, IN PART: "Semolina Ditalini" (and other style macaroni products).

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the products consisted in whole or in part of filthy substances by reason of the presence of insect frag-

ments, rodent hair fragments, hair resembling rodent hair, and unidentified hair; and, Section 402 (a) (4), they had been prepared and packed under insanitary conditions whereby they may have become contaminated with filth.

DISPOSITION: On December 10, 1947, pleas of not guilty having been entered, the case came on for trial. After several witnesses for the Government had testified, the defendants withdrew the pleas of not guilty on behalf of the corporation and Dominic Louis Gerbo, and pleas of guilty were entered for these defendants. The counsel for the defendants thereupon moved for dismissal of the case against Albert Martinelli. The court sentenced the Roma Macaroni Factory to pay a fine of \$10,000 and Dominic Louis Gerbo to pay a fine of \$5,000 and ordered the action dismissed as to Albert Martinelli.

12849. Adulteration of macaroni products. U. S. v. Galioto Bros. & Co., a partnership, and William Galioto and John B. Galioto. Pleas of guilty. Partnership fined \$1,200; each individual defendant fined \$200 and costs. (F. D. C. No. 22042. Sample Nos. 15480-H to 15482-H, incl. 38163-H.)

INFORMATION FILED: May 21, 1947, Northern District of Illinois, against Galioto Bros. & Co., a partnership, Chicago, Ill., and William Galioto, a partner, and John B. Galioto, an employee.

ALLEGED SHIPMENT: On or about March 29, September 25, and October 1, 1946, from the State of Illinois into the States of Wisconsin, Indiana, and Michigan.

LABEL, IN PART: "Circle M Brand * * * Made from Semolina Macaroni Packed For Merchants Grocery Co. Green Bay, Wis.," or "Italian Dinner Spaghetti [or "Spaghetтини"]."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a filthy substance by reason of the presence of insect fragments and rodent hairs; and, Section 402 (a) (4), it had been prepared and packed under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: December 5, 1947. Pleas of guilty having been entered, the partnership was fined \$1,200, and each individual defendant was fined \$200, plus costs.

12850. Adulteration of noodle products. U. S. v. Weiss Noodle Company. Plea of nolo contendere. Fine, \$300 and costs. (F. D. C. No. 23308. Sample Nos. 60449-H, 84801-H to 84803-H, incl.)

INFORMATION FILED: July 30, 1947, Northern District of Ohio, against the Weiss Noodle Co., a partnership, Cleveland, Ohio.

ALLEGED SHIPMENT: On or about December 23, 1946, and January 3, 1947, from the State of Ohio into the State of New York.

LABEL, IN PART: "Buckeye * * * Pure Egg Noodles," "Mrs. Weiss' Homemade Pure Egg Noodles," or "Weiss' Noodle Dinner."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the products consisted in part of filthy substances by reason of the presence of rodent hair fragments.

DISPOSITION: January 8, 1948. A plea of nolo contendere having been entered, the defendant was fined \$300, plus costs.

12851. Adulteration of egg noodles. U. S. v. 9 Cases * * *. (F. D. C. No. 24476. Sample No. 6060-K.)

LIBEL FILED: March 11, 1948, Northern District of Ohio.

ALLEGED SHIPMENT: On or about January 17, 1948, by the Dante Food Products Co., from Buffalo, N. Y.

PRODUCT: 9 cases, each containing 12 1-pound packages, of egg noodles at Youngstown, Ohio.

LABEL, IN PART: "Marigold Pure Egg Noodles."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insects and insect fragments; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: April 28, 1948. Default decree of condemnation and destruction.

MISCELLANEOUS CEREALS AND CEREAL PRODUCTS

12852. Adulteration of corn grits. U. S. v. Patent Cereals Co. Plea of guilty. Fine, \$1,000. (F. D. C. No. 24086. Sample No. 66219-H.)

INFORMATION FILED: February 5, 1948, Western District of New York, against the Patent Cereals Co., a corporation, Geneva, N. Y.

ALLEGED SHIPMENT: On or about May 1, 1947, from the State of New York into the State of Delaware.

LABEL, IN PART: "Geneva Grits."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a filthy substance by reason of the presence of whole insects and larvae; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: March 15, 1948. A plea of guilty having been entered on behalf of the defendant, a fine of \$1,000 was imposed.

12853. Adulteration of shelled corn. U. S. v. 200,000 pounds * * *. (F. D. C. No. 23650. Sample Nos. 83437-H, 83438-H.)

LIBEL FILED: August 26, 1947, Eastern District at Kentucky.

ALLEGED SHIPMENT: On or about July 29 and 30, 1947, by the Rardin Grain Co., from Kansas, Ill.

PRODUCT: 200,000 pounds of shelled white corn at Winchester, Ky.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent excreta.

DISPOSITION: October 6, 1947. The Winchester Milling Co., Winchester, Ky., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be brought into compliance with the law, under the supervision of the Federal Security Agency. The product was converted into animal feed.

12854. Adulteration and misbranding of popcorn. U. S. v. 400 Cases * * *. (F. D. C. No. 24021. Sample No. 18638-K.)

LIBEL FILED: December 18, 1947, Southern District of Ohio.

ALLEGED SHIPMENT: On or about October 23 and 29, 1947, by the Hart & Howell Co., from Brooklyn, Mich.

PRODUCT: 400 cases, each containing 24 cans, of popcorn at Columbus, Ohio.

LABEL, IN PART: (Can) "Contents 10 Ounces Gloria Jean Golden Mushroom Pop Corn."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of moldy kernels.

Misbranding, Section 402 (e) (2), the article failed to bear a label containing an accurate statement of the quantity of the contents. (The article was short-weight.)

DISPOSITION: January 16, 1948. The Hart & Howell Co., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond for salvaging under the supervision of the Food and Drug Administration. The product was disposed of as animal feed.

12855. Adulteration and misbranding of popcorn. U. S. v. 40 Bags * * *. (F. D. C. No. 23899. Sample No. 810-K.)

LIBEL FILED: November 7, 1947, Southern District of Florida.

ALLEGED SHIPMENT: On or about September 22 and 27, 1947, by J. W. Bond, from Henderson, Ky.

PRODUCT: 40 100-pound bags of popcorn at Tampa, Fla.

LABEL, IN PART: "Processed Popcorn Meets requirements of Pure Food, Drug, and Cosmetic Act of 1938."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent hair

fragments, insect fragments, and larvae; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

Misbranding, Section 403 (a), the label statement "Meets requirements of Pure Food, Drug, and Cosmetic Act of 1938" was false and misleading; and, Section 403 (e) (2), the product failed to bear a label containing an accurate statement of the quantity of the contents.

DISPOSITION: January 20, 1948. Default decree of condemnation. The product was ordered delivered to a Federal institution, for use as animal feed.

CONFECTIONERY

12856. Adulteration of sugar toasted peanuts. U. S. v. Jacob Serata and Morris Golden. Pleas of guilty. Jacob Serata fined \$100; Morris Golden fined \$400 and placed on 1 year's probation. (F. D. C. No. 20444. Sample Nos. 4596-H, 4597-H.)

INFORMATION FILED: September 12, 1946, District of New Jersey, against Jacob Serata and Morris Golden, Bridgeton, N. J.

ALLEGED SHIPMENT: On or about October 17 and 25, 1945, from the State of New Jersey into the State of Pennsylvania.

LABEL, IN PART: "ABC Sugar Toasted Peanuts * * * Distributed by Berlo Vending Co. Philadelphia, Pa."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of whole insects, insect fragments, and larvae; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: November 1, 1946. Pleas of guilty having been entered, Jacob Serata was fined \$100, and Morris Golden was fined \$400 and placed on 1 year's probation.

12857. Adulteration and misbranding of popcorn confections. U. S. v. Krispy Kone Co. Plea of guilty. Fine, \$250 and costs. (F. D. C. No. 23331. Sample Nos. 40488-H, 40489-H, 50283-H, 50284-H, 52074-H.)

INFORMATION FILED: September 3, 1947, Southern District of Iowa, against the Krispy Kone Co., a corporation, Des Moines, Iowa.

ALLEGED SHIPMENT: On or about January 24, 28, and 30, 1947, from the State of Iowa into the States of Illinois, Alabama, and Minnesota.

LABEL, IN PART: "Nuggets [or "Krispy Brand Nuggets"] * * * 3¼ Oz.," or "Nuggetts 'Carmel Corn' in Bulk 20 lbs."

NATURE OF CHARGE: Adulteration, Section 402 (a) (2), the products contained an added deleterious substance, mineral oil, which is unsafe within the meaning of the law, since it is a substance not required in the production of the article and could have been avoided by good manufacturing practice; and, Section 402 (d), the product was confectionery, and it contained a nonnutritive substance, mineral oil.

Misbranding, Section 403 (a), the statement "Butter Honey" borne on the labels was false and misleading, since the products did not contain butter and honey. Further misbranding (portion), Section 403 (a), the statement "3¼ Oz." was false and misleading, since the packages in some of the shipments so labeled contained less than 3¼ ounces; and, Section 403 (e) (2), the product failed to bear a label containing an accurate statement of the quantity of the contents.

DISPOSITION: April 23, 1948. A plea of guilty having been entered by the defendant, the court imposed a fine of \$250, together with costs.

12858. Adulteration of fruit confection. U. S. v. 40 Cases * * *. (F. D. C. No. 19361. Sample No. 58266-H.)

LIBEL FILED: On or about April 6, 1946, District of Montana.

ALLEGED SHIPMENT: On or about November 16, 1945, by the Fruit Bar Products Co., from Los Angeles, Calif.

PRODUCT: 40 cases, each containing 24 14-ounce packages, of fruit confection at Billings, Mont.

LABEL, IN PART: "Pauline's California Fruit Confection."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent hairs and insect fragments.

DISPOSITION: September 18, 1946. Default decree of condemnation and destruction.

12859. Adulteration of candy. U. S. v. C. A. Briggs Co., a corporation, and Charles A. Briggs. Pleas of guilty. Corporation fined \$50; individual fined \$200. (F. D. C. No. 22039. Sample Nos. 12172-H, 56667-H to 56669-H, incl.)

INFORMATION FILED: August 22, 1947, District of Massachusetts, against the C. A. Briggs Co., Cambridge, Mass., and Charles A. Briggs, president and treasurer; amended information filed February 25, 1948.

ALLEGED SHIPMENT: On or about February 9 and 13, 1946, from the State of Massachusetts into the States of Rhode Island and New Hampshire.

LABEL, IN PART: "Rum Butter Crunch," or "Vanilla Cream [or "Fudge"] * * * Radcliffe Chocolates."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3).

DISPOSITION: February 25, 1948. Pleas of guilty having been entered on behalf of the defendants, the corporation was fined \$50 and the individual was fined \$200.

12860. Adulteration of candy. U. S. v. Shaghalian's, Inc., and Michael H. Hintlian. Pleas of guilty. Corporation fined \$200; Michael H. Hintlian fined \$25. (F. D. C. No. 23311. Sample Nos. 65080-H, 66054-H.)

INFORMATION FILED: December 17, 1947, District of Massachusetts, against Shaghalian's, Inc., Boston, Mass., and Michael H. Hintlian, secretary-treasurer.

ALLEGED SHIPMENT: On or about December 23, 1946, and January 10, 1947, from the State of Massachusetts into the State of Pennsylvania.

LABEL, IN PART: "Julia Nolte's Assorted Chocolates 'Classic' * * * Mfd. By Julia Nolte Chocolates Co. Boston, Mass."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a filthy substance by reason of the presence of rodent hair fragments; and, Section 402 (a) (4), it had been prepared and packed under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: March 15, 1948. Pleas of guilty having been entered, the corporation was fined \$200 and the individual defendant was fined \$25.

12861. Adulteration and misbranding of candy. U. S. v. L. R. Stone Company, Inc., and Lewis R. Stone. Pleas of nolo contendere. Corporation and individual each fined \$300. (F. D. C. No. 23302. Sample Nos. 70551-H, 81528-H, 81533-H, 91971-H.)

INFORMATION FILED: September 22, 1947, Southern District of California, against the L. R. Stone Co., Inc., Los Angeles, Calif., and Lewis R. Stone, president.

ALLEGED SHIPMENT: On or about October 28 and November 22 and 23, 1946, from the State of California into the States of Colorado, New Mexico, and Oregon.

LABEL, IN PART: "Hollywood Sweets Brand * * * Miniature Pecan Rolls Net Wt. 8 ozs. Ingredients * * * Pecan Nuts," or "20 lbs. Net Delmar * * * Miniature Pecan Rolls."

NATURE OF CHARGE: Adulteration, Section 402 (b) (1), a valuable constituent, pecan nuts, had been omitted from the food; and, Section 402 (b) (2), a substance containing walnut meats had been substituted for the article.

Misbranding, Section 403 (a), the statements "Miniature Pecan Rolls" and (portion of product) "Ingredients * * * Pecan Nuts" were false and misleading, since the product did not contain pecan nuts; and, Section 403 (e) (2), one shipment of the 8-ounce rolls failed to bear a label containing an accurate statement of the quantity of the contents, since the packages contained less than 8 ounces.

DISPOSITION: September 29, 1947. Pleas of nolo contendere having been entered, the defendants were each fined \$300.

12862. Alleged misbranding of Ayds candy. U. S. v. 14 Cartons * * *. Plea of res judicata. Judgment for the claimant. Libel dismissed. (F. D. C. No. 16774. Sample No. 22170-H.)

LIBEL FILED: July 16, 1945, Eastern District of Missouri.

ALLEGED SHIPMENT: On or about March 1 and 13, May 23, and June 4, 1945, by the Carlay Company, from Chicago, Ill.

PRODUCT: 14 cartons, each containing 24 packages, of Ayds candy at St. Louis, Mo., and a number of leaflets entitled "A Beautiful Figure" and "I Lost 52 Pounds," window streamers entitled "Are You Overweight?" and placards entitled "I Lost 52 Pounds" and "Before After." This printed material was shipped with the product. Enclosed in the retail packages were direction leaflets entitled "Ayds Vitamin Candy Reducing Plan."

Examination showed that the article was candy with small proportions of added materials, including compounds of calcium, phosphorus, and iron, and vitamins B₁, B₂, A, and D, as stated on the label.

LABEL, IN PART: "Ayds Candy Contains dextrose, corn syrup, sugar, condensed whole and skimmed milk, vegetable oil, soya flour, malt syrup, powdered egg yolk, powdered carrots, salt, imitation vanilla flavor * * * Each 4 pieces of Ayds is fortified with 200 units of Vitamin A from fish liver oil, 500 units of Vitamin D (ergosterol), 500 units of Vitamin B₁ (Thiamin), 1 milligram of B₂ (Riboflavin), 175 milligrams calcium, 130 milligrams of phosphorus, 5 milligrams of iron (ferric phosphate insoluble)."

NATURE OF CHARGE: Misbranding, Section 403 (a).

DISPOSITION: August 15, 1945. The Carlay Company, claimant, filed an answer denying the charge of misbranding, and for a second defense pleaded res judicata and requested ruling on this issue prior to trial on the merits, to which the Government agreed. On June 10, 1946, the court handed down the following memorandum opinion, sustaining the claimant's defense:

RUBEY M. HULEN, District Judge: "This is a libel case. Plaintiff would confiscate fourteen cartons of Ayds Candy, a product recommended for weight reduction, because misbranded under Title 21, U. S. C., Section 343a. The Carlay Company claims ownership of the product. Claimant's answer (second defense) presents a plea of res adjudicata, that

all of the issues set forth in the libel herein with respect to all printed matters and articles described and set forth in the libel and the right of the libelant to libel the same, have been heretofore determined and adjudicated by the Federal Trade Commission, an agency of the United States of America, of co-ordinate authority with this honorable Court, in a proceeding entitled "In the matter of The Carlay Company, a corporation, Federal Trade Commission Docket No. 4898 (1944)," and in which proceeding this claimant was party respondent and the United States of America, acting through the Federal Trade Commission was party complainant, and in which proceeding the truth or falsity of the statements alleged in this libel to constitute misbranding were fully adjudicated in favor of this claimant, and in which the order issued by the Federal Trade Commission was appealed to the United States Circuit Court of Appeals for the Seventh Circuit, on a Petition for Review of Order of the Federal Trade Commission: * * *

Both parties request ruling on this issue prior to trial of cause on its merits and same is now before the Court.

"The package in which the product is sold, the printed matter on it and accompanying it, constitute plaintiff's case. Claimant offered complaint of the Federal Trade Commission, order of Federal Trade Commission, Findings as to the Facts and Conclusions of the Commission, proceedings before the Federal Trade Commission, and Exhibits offered by Claimant in Federal Trade Commission Case, Docket Number 4898, being the case prosecuted by the Commission against claimant.

"The question before this Court is, was the main underlying issue in the case before the Federal Trade Commission the same as presented by the libel? The Commission's complaint charged claimant disseminated false advertising concerning their product for the purpose of inducing its purchase, the statements contained in circulars, leaflets, pamphlets and other advertising literature being:

Many overweights praise the Ayds Candy reducing plan. It is easy. It is pleasant. No drugs. No exercising. It is usually effective where overweight is caused by over-nutrition. One or two delicious pieces eaten just before each meal * * * and Ayds Candy curbs the craving for rich, fattening foods. Ayds contain vitamins A, B, and D and other essential nutrients. The diet is reduced automatically without the usual effort * * * without weakening effects * * * without hunger pangs.

Many lose weight by "Eat Candy" plan. Delicious Ayds Candy, eaten as directed by Ayds plan, curbs appetite for fattening foods.

Ayds plan calls for no exercising. Many simply eat this delicious candy to curb their appetites for rich, fattening foods. Ayds plan is effective only in cases of overweight due to over-indulgence in eating, which includes most overweight people. Ayds Candy helps supply Vitamins A, B and D to prevent deficiencies that might occur due to lessened appetite.

Would you like to lose up to 10 lbs. in 5 days? Try this New Home Lemon Juice Recipe Way to lose ugly fat! Here's marvelous news for women who are overweight! Now you can make a reducing supplement right in your own kitchen, to help you lose those Ugly, unwanted pounds! It's so simple—so easy—and so effective! Some lose as much as 10 pounds in their first 5 days using this Plan! You never starve yourself. You use no drugs. You take no laxatives. You take no more exercise than you are accustomed to take. You eat plenty of healthful, satisfying foods. Yet you lose weight.

Why be fat? Here's an amazing, Easy Way to Lose Weight. No starvation diet. No strenuous exercises. Everywhere in America women are praising this simple, new way to lose ugly, unwanted pounds. By this easy plan many an overweight has been able to regain a more slender, more graceful figure. Many Now Eat Candy While They Grow Thin. It's so easy, you just eat one or two delicious pieces of Ayds Candy, with a glass of water before meals. This encourages you not to eat the rich, fattening foods, high in calories. You eat plenty—never go hungry! You don't cut out sweets and starchy foods. You just cut them down. You really *enjoy* reducing by this plan.

The Eat Candy plan * * * now eat candy and grow thin—new, easy plan.

You never starve yourself. You eat plenty of healthful, satisfying foods.

I lose 42 pounds in 60 days.

You can lose ugly pounds and have a slender, graceful figure. No dangerous dieting. No drugs. No exercising. You simply eat this pure delicious food candy as directed and grow thin.

Don't worry about those extra pounds. Many lose weight by new plan—eat candy every day.

At last I wear size sixteen again! Lost 36 pounds without exercising—using Ayds plan and candy.

The charge was that by these statements, 'all of which purport to be descriptive of the weight reducing properties' of claimant's product, claimants have represented that the use of 'Ayds' and claimants' 'plans' presents a new, easy way to reduce excess fat without dieting or exercise; 'that the use of Ayds candy plays a significant and important part in the reducing plan offered by respondents; that the use of Ayds Candy will curb or dull the appetite for fattening foods, and that respondents' plans for reducing will result in the loss of excess weight in an easy, pleasant way without the necessity of strict dieting.' Further charge was that the 'plans' are not revealed to the purchaser before the purchase and the purchaser is led to believe through such 'concealment' of the actual facts, that the only essential requirement, in order to obtain a reduction in weight, is the eating of a few pieces of the Ayds Candy before meals, when in fact a 'severely restricted low calorie diet in addition to the use of respondents' product' is required.

"The Commission's complaint charges (1) the statements (quoted above) to be false and misleading, and (2) the plans to be deceptive. The particulars in which the statements and plans are misleading and false are set forth in detail:

The Ayds play no significant role in the reducing program, their only function being to furnish some degree of vitamin and mineral supplementation for a reducing diet. The use of Ayds is not a new, easy way to reduce excess weight, but on the contrary it is necessary for the individual to follow a rigidly restricted dietary program. There is nothing easy about either the selection of, or adherence to, such a diet. * * * The effect of Ayds upon the appetite is only temporary, and does not curb or dull the appetite or mitigate the pangs of hunger between meals. In order to be successful in reducing weight it is still necessary for the user to follow a rigidly restricted, low calorie diet, with all the discomforts and annoyances which are inherent in such diets. Moreover, such low calorie diets ordinarily supply sufficient quantities of essential nutritive elements, including proteins, vitamins and minerals, without the necessity of supplementing them by Ayds or other vitamin-enriched products.

Any loss of weight that may be experienced by a person following the regimen advocated by respondents is due primarily to the restricted diet and not to the Ayds. Furthermore, respondents' representation as to loss of weight that may be expected by the use of their reducing methods are grossly exaggerated.

"The Commission sustained the charges. Its findings conclude:

Through the use of these statements and others of a similar nature, respondents have represented, directly or by implication, that the use of their candy and "plan" provides an easy way or method whereby excess weight may be removed from the body, and that such reduction in weight is effected without the necessity of restricting the diet.

* * * Respondents' "plan" for the removal of excess weight calls for the eating of one or two pieces of the candy before each meal and the observance of one of three restricted diets prescribed by respondents in the printed directions enclosed in each box of candy. Respondents' theory as to the part played by the candy in the weight reducing program is that the eating of the candy curbs the appetite, with the result that less food is eaten. The only virtue claimed by respondents for the vitamins and minerals in the candy is that they afford some protection against any nutritional deficiency which might result from the purported decrease in the food intake. * * *

As in the case of any sweet, the eating of respondents' candy immediately preceding a meal may to some extent curb or dull the appetite and make it some easier to refrain from overeating at that particular meal. This effect, however, is only temporary; the desire for food will soon return, and unless such desire is restrained and the diet adhered to, the effort to reduce weight will result in failure.

In short, any reduction in weight following the use of respondents' plan results from the adherence to the diet prescribed by respondents and not from the use of the candy. One following the diet would lose weight regardless of whether the candy is used or not, and the use of the candy without adherence to the diet would prove ineffectual.

The removal of excess weight from the body, therefore, cannot be accomplished through the use of respondents' candy and "plan" without the necessity of dieting. On the contrary, respondents' "plan" contemplates the adherence to a low caloric diet, and such adherence is in fact essential. Nor is the use of the "plan" "easy" as claimed by respondents. The adherence to restricted diets such as are prescribed by respondents is usually a difficult matter, particularly for individuals who are overweight, and requires the exercise of an unusual amount of will power and self-restraint.

* * * The Commission therefore finds that the representations made by respondents with respect to their candy and to their plan for the removal of excess weight, as set forth in paragraphs three and four hereof, are erroneous and misleading and constitute false advertisements.

"On review, the Circuit Court of Appeals, in *Carlay et al vs. Federal Trade Commission*, (7th C. C. A. February 15, 1946) 153 F. 2d 493, ruled:

There is no evidence in this record to support a finding that it is necessary, in order to follow the suggested "plan," that the user adhere to a restricted diet. The facts are plain, it being undisputed that eating candy before meals curbs the appetite, lessens intake of food and involves no restriction of diet but automatically restrains the desire for food. This, we think, is all that petitioners have ever claimed; this, we think, is all that their advertising represents. There is absolute absence of any deceptive representation. It follows that *there is lack of substantial evidence* to support the finding that a rigorous or restricted diet is necessary.

* * * * *
The Commission says that carrying the "plan" into execution is not "easy." The term obviously is one of comparative or relative connotation. Whether one plan is easy and another hard, whether one is easier than another, whether one simple and another intricate, are all questions of comparative character and quality. The statement of practically all the witnesses is that the plan is easy and simple, and we think the only inference possible to draw from the undisputed facts leads necessarily to the conclusion that the plan is not a complicated one, but rather a relatively easy one involving no drugs, no restricted or rigorous diet; that its workings are simple in that it is only necessary for the user to eat the candy before meals and thus curb his desire for food, resulting not in the necessity of exercise of will power in refraining from consumption of certain foods, but in less desire for and less intake of all kinds of foods. * * * Consequently *there was nothing deceptive in the advertising in this respect.*

* * * * *
Respondent urges that inasmuch as the details of the plan were contained only in the pamphlet inclosed in the candy box, the advertisements were deceptive in that they failed to advise the reader that the plan involved taking less food. Respondent terms this "a restricted diet" but, as we have seen, in truth and in fact it is not a matter of dieting so much as the eating of sweet food to reduce the desire for food of higher calories. As we have observed, each of the advertisements refers to a plan. Anyone who reads them knows that eating the candy was to be accompanied by a suggested plan and that the candy and the plan together constituted the entire helpful contribution. When the reader obtained his candy and perused the plan, of which he had been given notice, he learned not that the advertisement was wrong but merely that the plan coincided with what the advertising told him, when to eat the candy, and what the purpose was in eating it. [Emphasis added.]

"The libel charges misbranding in that statements and certain 'leaflets' which are attached to the libel as 'Exhibit A,' are false in that such statements and designs represent and suggest and create in the minds of the readers thereof the impression that consumption of the article is effective (1) to cause loss of body fat and a reduction of body weight, (2) to enable the user to have a slenderer, more graceful figure, (3) to accomplish such a result quickly, easily, pleasantly, and without conscious dieting, (4) to curb the appetite and unconsciously train the user to reduce his food intake so that his weight, once reduced, will not increase, (5) to enable the user to look better, feel better and younger and appear lovely, (6) to supply minerals and vitamins in proper amounts not only to prevent disease but enough for buoyant health, (7) to build up resistance of the body to disease by reason of its Vitamin A content, (8) and to help to maintain pep and energy and continued good health; whereas, consumption of the article is not effective for such purposes.

"When the specifications of misbranding in the libel are compared with the Commission's complaint, its findings and conclusions, and the ruling of the Circuit Court of Appeals in the Carlay case, we find that what was charged to be false before the Commission is substantially the same as charged in the libel. The libel couches its charge in different language, in some respects, from the

Commission's complaint, but we cannot escape the conclusion that the underlying issue in the two proceedings is the same. The advertising matter used by claimant and relied upon by plaintiff to sustain its libel is the same advertising matter relied upon by the Commission to sustain its case. Thus libelant in effect admits that the basis of its case is the same evidence as was presented before the Commission.

"Plaintiff would avoid the effect of the decision of the Court of Appeals in the Commission's case, on four grounds:

(1) such (to hold a ruling in a Federal Trade Commission case *res adjudicata* in a libel proceeding) was not the intent of Congress;

(2) it (such a holding) would be against public policy;

(3) the order of the Federal Trade Commission even when affirmed, modified or set aside by the Circuit Court of Appeals does not possess the element of finality to support a plea of *res adjudicata*; and

(4) there is no mutuality of estoppel. [Plaintiff's brief, page 38.]

Not included in this summary, it is also urged by plaintiff that the two proceedings under consideration are different. The proceeding before the Commission is 'designed to restrain the unlawful advertising of *Ayds Candy*, while the latter (libel) seeks the condemnation of a shipment of the product.' Both proceedings are based on the same alleged false advertising. It would be an incongruous situation if that which was not false advertising before one Department of the Federal Government were held to be false advertising before another, on the hypothesis that in the one case the Government was only seeking to restrain the advertising, while in the other the Government was confiscating the product advertised. Government regulations, of necessity, have become complex in their nature, but this Court is unwilling to approve procedure of the character now contended for by the Government. Plaintiff's position, in our judgment, is contrary to the ruling of the Court of Appeals for the Eighth Circuit. In *George H. Lee Company vs. Federal Trade Commission*, 113 F. 2d 583, the Federal Trade Commission had proceeded against the appellant, charging false and misleading representations in the sale of 'gizzard capsules.' In a libel proceeding involving the same charge of falsity in advertising, the trial court resolved the issue in favor of the petitioner and dismissed the proceeding, from which no appeal was taken. The petitioner, being unsuccessful in its plea of *res adjudicata* before the Commission, was sustained by the Court of Appeals. The Court said:

Where the underlying issue in two suits is the same, the adjudication of the issue in the first suit is determinative of the same issue in the second suit. * * * There is privity between officers of the same government so that a judgment in a suit between a party and a representative of the United States is *res judicata* in relitigation of the same issue between that party and another officer of the government. * * * Where a suit binds the United States, it binds its subordinate officials. * * * The United States may not relitigate the same issue in successive libel proceedings involving different quantities of the same product (*George H. Lee Co. v. United States*, 9 Cir., 41 F. 2d (460)), nor may it relitigate the same issue in any proceeding in which the parties are the same and the product is the same. The rule is that a right, question, or fact distinctly put in issue, and directly determined by a court of competent jurisdiction, as a ground of recovery, cannot be disputed in a subsequent suit between the same parties or their privies; and even if the second suit is for a different cause of action, the right, question, or fact once so determined must, as between the same parties or their privies, be taken as conclusively established, so long as the judgment in the first suit remains unmodified.

If the question of the falsity of the representations of the petitioner contained on its labels and circulars had been determined adversely to the petitioner in the libel proceeding, it could not have been heard to say in the proceedings instituted by the Commission that such representations were true. By the same token, the United States and its instrumentality, the Commission, were not, after the decree in the libel proceeding, entitled to say that the representations made by the petitioner which had been finally adjudged not to be false, were in fact false. The government had had its full day in court on that issue, had lost its case, and could not collaterally attack, either directly or indirectly, the decree entered against it.

"In *United States versus Willard Tablet Company* (7th C. C. A.) 141 F. 2d 141, the United States instituted libel proceedings for condemnation of a quantity of Willard tablets on the ground that the labeling was false. The claimant there, as here, answered, setting up a plea of *res adjudicata*, based upon a prior proceeding before the Federal Trade Commission, where the charge was dismissed. The plea of *res adjudicata* was sustained in the trial court and affirmed on appeal, the Court citing the Lee case as authority for its ruling.

"These two cases, one on an order of the Commission in which a judgment in a libel proceeding was successfully interposed on a plea of *res adjudicata*, and the other a libel in which an order on a Commission ruling was successfully

interposed as res adjudicata, in our opinion dispose of the question presented by the record in this case and the points urged by plaintiff.

"Order will go accordingly."

On June 19, 1946, the court handed down findings of facts and conclusions of law consonant with the foregoing opinion and ordered the libel dismissed.

12863. Adulteration of candy. U. S. v. 39 Boxes, etc. (and 3 other seizure actions). (F. D. C. Nos. 24442, 24443, 24445, 24446. Sample Nos. 24064-K to 24066-K, incl., 24466-K, 24897-K, 24898-K.)

LIBELS FILED: On or about February 17, 18, and 19, 1948, Western District of Wisconsin, Southern District of Iowa, and District of North Dakota.

ALLEGED SHIPMENT: Between the approximate dates of December 3, 1947, and January 26, 1948, by Candymasters, Inc., from Minneapolis, Minn.

PRODUCT: 98 boxes at Eau Claire, Wis., 57 boxes at Des Moines, Iowa, 29 boxes at Marshalltown, Iowa, and 234 boxes at Fargo, N. Dak., each box containing 24 1-ounce candy bars.

LABEL, IN PART: "Walnut Hill," or "Master Mint."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insect fragments, insects, and rodent hair fragments; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: March 9, April 29, and May 10, 1948. Default decrees of condemnation and destruction.

12864. Adulteration of candy. U. S. v. 39 Boxes * * *. (F. D. C. No. 24496. Sample No. 18481-K.)

LIBEL FILED: March 19, 1948, Western District of Kentucky.

ALLEGED SHIPMENT: On or about February 13, 1948, by the Whitson Candy Co., from Knoxville, Tenn.

PRODUCT: 39 boxes, each containing 120 sticks, of candy at Campbellsville, Ky.

LABEL, IN PART: "Whitson's Pure Sugar Full Value Penny Stick Candy."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent hair fragments; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: April 23, 1948. Default decree of condemnation and destruction.

12865. Adulteration of candy. U. S. v. 25 Boxes * * *. (F. D. C. No. 23930. Sample No. 710-K.)

LIBEL FILED: November 17, 1947, Southern District of Florida.

ALLEGED SHIPMENT: On or about September 10, 1947, by the Lee Chocolate Co., from Atlanta, Ga.

PRODUCT: 25 boxes, each containing 24 1½-ounce bars, of candy at Jacksonville, Fla.

LABEL, IN PART: "Lee's Cocoanut Bar."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insects and insect fragments; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: January 22, 1948. Default decree of condemnation and destruction.

12866. Adulteration and misbranding of candy. U. S. v. 5 Cartons, etc. (F. D. C. No. 23750. Sample No. 78809-H.)

LIBEL FILED: September 30, 1947, Western District of Washington.

ALLEGED SHIPMENT: On or about August 14, 1947, by Kandy McNutt, from Whittier, Calif.

PRODUCT: Candy. 5 cartons, each containing 24 bars, and 1 carton, containing 20 bars, at Mount Vernon, Wash.

LABEL, IN PART: "Cherry Flip Net Weight 1½ Oz. or Over Contains Chocolate, Peanuts, Sugar, Corn Syrup, Cherry, Egg Albumen, Yeast Extract, Benzoate of Soda Artificially colored and flavored."

NATURE OF CHARGE: Adulteration, Section 402 (b) (1), a valuable constituent, cherry, had been in whole or in part omitted from the article.

Misbranding, Section 403 (a), the label statement, "Cherry Flip * * * Contains * * * Cherry," and a design of cherries on the cartons, were false and misleading as applied to an article containing artificial flavoring and coloring but containing no cherries or pieces of cherries; and, Section 403 (e) (2), the article failed to bear a label containing an accurate statement of the quantity of the contents. (The article was short-weight.)

DISPOSITION: March 18, 1948. Default decree of condemnation. The product was ordered delivered to a Government institution.

12867. Adulteration of candy. U. S. v. 20 Boxes * * * (and 2 other seizure actions). (F. D. C. Nos. 23989, 24027, 24134. Sample Nos. 9789-K, 14103-K, 14107-K.)

LIBELS FILED: November 28 and December 9 and 24, 1947, Northern District of Illinois and Southern District of New York.

ALLEGED SHIPMENT: On or about November 4, 5, and 15, 1947, by the Aunt Martha Wayside Farm, from Broomall and Ardmore, Pa.

PRODUCT: Candy. 20 1-pound boxes and 3 cases, each case containing 12 1-pound boxes, at Chicago, Ill., and 9 1-pound boxes at New York, N. Y.

LABEL, IN PART: (One shipment) "Topsy Chocolates Bar Excellence Rum Drops"; (two shipments) "Topsy Chocolates Choice Blend 5 in 1 Whiskey Wafers, Rum Drops, Gin Bitters, Cognac Kisses, Mint Juleps."

NATURE OF CHARGE: Adulteration, Section 402 (d), the product was confectionery and contained alcohol.

DISPOSITION: December 19, 1947, and February 25 and March 9, 1948. Default decrees of condemnation and destruction.

12868. Adulteration of rock candy crystals. U. S. v. 60 Boxes * * *. (F. D. C. No. 23024. Sample No. 50410-H.)

LIBEL FILED: May 12, 1947, Western District of Louisiana.

ALLEGED SHIPMENT: On or about March 5, 1947, by Dryden & Co., from Philadelphia, Pa.

PRODUCT: 40 boxes, each containing 24 packages, and 20 boxes, each containing 12 packages, of rock candy crystals at Shreveport, La.

LABEL, IN PART: (Packages) "100% Pure Rock Candy Crystals For Coughs For Colds Net Weight 4 Ounces."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of cat hairs and nondescript dirt; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: December 4, 1947. Default decree of condemnation and destruction.

12869. Adulteration of candy Easter eggs. U. S. v. 8 Cases * * *. (F. D. C. No. 24689. Sample No. 13210-K.)

LIBEL FILED: March 26, 1948, District of Delaware.

ALLEGED SHIPMENT: On or about March 10, 1948, by the De Witt P. Henry Co., from Philadelphia, Pa.

PRODUCT: 8 cases each containing 96 ¼-pound candy Easter eggs at Wilmington, Del.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insect fragments and rodent hair fragments; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: April 15, 1948. Default decree of condemnation and destruction.

12870. Misbranding of candy. U. S. v. 138 Boxes * * *. (F. D. C. No. 23943. Sample Nos. 26835-K to 26839-K, incl.)

LIBEL FILED: October 30, 1947, Western District of Tennessee.

ALLEGED SHIPMENT: On or about October 7, 1947, by the Hy-Lan Candy Co., Inc., from Atlanta, Ga.

PRODUCT: 138 boxes each containing 36 assorted candy bars at Memphis, Tenn.

LABEL, IN PART: "Cream Bar Net Wt. 1½ Ozs.," "Peanut Honey Average Weight 2 Ozs.," "Peanut Bar Average Weight 2 Ozs.," "Coconut Bar Net Wt. 1½ Ozs.," or "Sugar Stick Net Wt. 1 Oz."

NATURE OF CHARGE: Misbranding, Section 402 (e) (2), (all candy bars except Sugar Stick) the products failed to bear labels containing an accurate statement of the quantity of the contents. (The candy bars were short-weight, with the exception of the Sugar Stick.)

DISPOSITION: February 11, 1948. Default decree of condemnation. The product was ordered delivered to charitable institutions.

12871. Misbranding of caramels. U. S. v. 35 Cases * * *. (F. D. C. No. 24441. Sample No. 12135-K.)

LIBEL FILED: February 13, 1947, Southern District of Ohio.

ALLEGED SHIPMENT: On or about February 3, 1948, by the Benson Manufacturing Co., from Philadelphia, Pa.

PRODUCT: 35 cases, each containing 140 packages, of caramels at Cincinnati, Ohio. Examination showed that each package contained five caramels, whereas seven could easily have been placed in each package. In addition, the product was found to be short-weight.

LABEL, IN PART: "ABC Deluxe Quality Caramels Net Wt. 1⅛ Ozs."

NATURE OF CHARGE: Misbranding, Section 403 (d), the container of the article was so filled as to be misleading, since at least two additional caramels could easily have been placed in each package; and, Section 403 (e) (2), the article failed to bear a label containing an accurate statement of the quantity of the contents.

DISPOSITION: April 9, 1948. Default decree of condemnation. The product was ordered delivered to charitable institutions.

DAIRY PRODUCTS

BUTTER

The following cases report actions involving butter that consisted in whole or in part of filthy or decomposed substances, Nos. **12872 to 12875**; that was below the legal standard for milk fat content, Nos. **12876 to 12883**; and that was short of the declared weight, No. **12884**.

12872. Action to enjoin and restrain the interstate shipment of butter, cheese, and cheese products. U. S. v. Hygrade Food Products Corporation and Edward Berens. Complaint for permanent injunction dismissed. (Inj. No. 115.)

COMPLAINT FILED: October 24, 1945, Northern District of Iowa, against the Hygrade Food Products Corporation, New York, N. Y., and Edward Berens of Cedar Rapids, Iowa, district manager of the corporation's branch plants, at Tipton, Olin, Plainfield, Toledo, and Clarksville, Iowa.

The complaint alleged that since on or about April 1943, the defendant had been manufacturing butter, cheese, and cheese products under grossly insanitary conditions at the above-mentioned plants, where the products became contaminated with filth whereby they may have been rendered injurious to health; that the products so manufactured contained manure, insect legs, fly fragments, house flies, larvae, rodent hairs, weevils, mites, spiders, cockroaches, mosquitoes, sand, dirt, rust, wood, metal, plant fragments, cow hairs, and other filthy and deleterious substances unfit for food; and that the milk used in the manufacture of the products at the Olin, Plainfield, and Toledo, Iowa, plants was not pasteurized before such manufacture.

The complaint alleged further that the defendants had been shipping, and were continuing to ship, in interstate commerce, butter, cheese, and cheese

products which were adulterated within the meaning of Section 402 (a) (3) and (4).

PRAYER OF COMPLAINT: That an injunction issue enjoining and restraining the defendants from commission of the acts complained of.

DISPOSITION: On November 20, 1945, the defendants filed a motion to strike and for a more specific statement, and on December 3, 1945, the court overruled the motion, with the exception of that part of the motion to strike relating to the allegation in the complaint charging the use of unpasteurized milk at the Olin, Plainfield, and Toledo plants, which allegation was stricken. In response to a further motion for a more specific statement as to the nature of the insanitary conditions charged, an amendment to the complaint was filed on February 28, 1946, setting forth specifically the alleged insanitary conditions and methods of operation.

Pursuant to stipulation of the parties, a preliminary injunction was granted on September 28, 1946, enjoining the interstate shipment of dairy products manufactured at the Tipton and Olin plants and continuing the application for injunction as to the other plants until final hearing in the matter. On November 15, 1946, the preliminary injunction was modified to permit shipment for export in compliance with Section 801 (d) of the law. On December 16, 1946, the court entered an order dissolving the preliminary injunction and continuing the case for trial on the basis of the Government's consent thereto and the stipulation that the milk supply then being used by the defendants was in substantial compliance with the law, and that the Government had no serious objections to the sanitary conditions existing at that time in the plants involved.

On April 21, 1947, investigation having shown that sanitary conditions had greatly improved, and that the defendants' plants were operating in compliance with the law, the Government filed a motion for dismissal upon payment of costs by the defendants. On the same date, costs having been paid, the case was ordered dismissed.

12873. Adulteration of butter, cream, and skim milk curd. U. S. v. John H. Costello (Mendota Creamery), and Theodore C. Lang. Pleas of nolo contendere. John H. Costello fined \$500 and costs; Theodore C. Lang fined \$200 and costs. (F. D. C. No. 22027. Sample Nos. 40380-H to 40382-H, incl.)

INFORMATION FILED: May 1, 1947, Northern District of Illinois, against John H. Costello, trading as Mendota Creamery, Mendota, Ill., and Theodore C. Lang, manager.

ALLEGED SHIPMENT: On or about August 14, 1946, from the State of Illinois into the State of Missouri.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the products consisted in part of filthy substances and, Section 402 (a) (4), they had been prepared and packed under insanitary conditions whereby they may have become contaminated with filth.

DISPOSITION: November 5, 1947. Pleas of nolo contendere having been entered, John H. Costello was fined \$500 and costs, and Theodore C. Lang was fined \$200 and costs.

12874. Adulteration of butter. U. S. v. 21 Cartons (1,344 pounds) * * *. (F. D. C. No. 24206. Sample Nos. 52241-H, 64756-H.)

LIBEL FILED: December 12, 1946, District of New Jersey.

ALLEGED SHIPMENT: On or about November 26, 1946, by the Parsons Creamery & Locker Co., Woonsocket, S. Dak.

PRODUCT: 21 cartons, each containing approximately 64 pounds, of butter at Bayonne, N. J.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy, putrid, or decomposed substance. (Examination showed that the product contained rodent hair fragments, insect fragments, and human hair.)

DISPOSITION: February 24, 1947. Default decree of forfeiture. The product was ordered denatured and sold for fat salvage purposes.

12875. Adulteration of butter. U. S. v. 450 Pounds * * * (and 1 other seizure action; 610 pounds, total). (F. D. C. Nos. 23928, 24163. Sample Nos. 83159-H, 19035-K.)

LIBELS FILED: August 19 and October 3, 1947, Eastern District of Kentucky and Southern District of West Virginia.

ALLEGED SHIPMENT: On or about August 13 and September 17, 1947, by the Tri-State Butter Co., from Cincinnati, Ohio.

PRODUCT: Butter. 450 pounds at Newport, Ky., and 5 32-pound cases at Charleston, W. Va.

LABEL, IN PART: "Rich Pasture Creamery Butter," or "Sunnydale Brand Butter."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance. (Examination showed the presence of mold mycelia, indicating that the butter had been made from decomposed cream.)

DISPOSITION: September 24, 1947, and February 26, 1948. Default decrees of condemnation. The product was ordered disposed of for fat salvage purposes.

12876. Adulteration of butter. U. S. v. Pickerington Creamery Co., Inc., and Arthur J. Good. Pleas of guilty. Corporation fined \$1,200; Arthur J. Good fined \$400. (F. D. C. No. 23321. Sample Nos. 53726-H, 73700-H.)

INFORMATION FILED: August 7, 1947, Southern District of Ohio, against the Pickerington Creamery Co., Inc., Pickerington, Ohio, and Arthur J. Good, president.

ALLEGED SHIPMENT: On or about February 20 and May 8, 1947, from the State of Ohio into the State of Kentucky.

NATURE OF CHARGE: Adulteration, Section 402 (b) (1), a valuable constituent, milk fat, had been in part omitted from the product; and, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

DISPOSITION: September 26, 1947. Pleas of guilty having been entered on behalf of the defendants, the corporation was fined \$1,200 and the individual was fined \$400.

12877. Adulteration of butter. U. S. v. Elmer R. Schultz (Gateway Farmer Creamery). Plea of guilty. Fine, \$50. (F. D. C. No. 22094. Sample No. 39243-H.)

INFORMATION FILED: June 16, 1947, District of South Dakota, against Elmer R. Schultz, trading as Gateway Farmer Creamery, Eureka, S. Dak.

ALLEGED SHIPMENT: On or about January 29, 1947, from the State of South Dakota into the State of Illinois.

LABEL, IN PART: "Butter * * * The Eureka Creamery Eureka, S. D."

NATURE OF CHARGE: Adulteration, Section 402 (b) (1), a valuable constituent, milk fat, had been omitted from the product; and, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

DISPOSITION: February 26, 1948. A plea of guilty having been entered, the defendant was fined \$50.

12878. Adulteration of butter. U. S. v. Equity Union Creameries, Inc. Plea of guilty. Fine, \$25 (F. D. C. No. 23285. Sample No. 52276-H.)

INFORMATION FILED: July 14, 1947, District of South Dakota, against the Equity Union Creameries, Inc., Aberdeen, S. Dak.

ALLEGED SHIPMENT: On or about February 11, 1947, from the State of South Dakota into the State of New York.

NATURE OF CHARGE: Adulteration, Section 402 (b) (1), a valuable constituent, milk fat, had been omitted from the product; and, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

DISPOSITION: April 9, 1948. A plea of guilty having been entered on behalf of the defendant, a fine of \$25 was imposed.

12879. Adulteration of butter. U. S. v. Lytton Cooperative Creamery Association. Plea of guilty. Fine, \$100 and costs. (F. D. C. No. 23614. Sample Nos. 91382-H, 91383-H.)

INFORMATION FILED: December 10, 1947, Northern District of Iowa, against the Lytton Cooperative Creamery Association, a corporation, Lytton, Iowa.

ALLEGED SHIPMENT: On or about June 2, 1947, from the State of Iowa into the State of New York.

LABEL, IN PART: "Creamery Butter Distributed By Fitch, Cornell & Co. 4935 New York, N. Y."

NATURE OF CHARGE: Adulteration, Section 402 (b) (1), a valuable constituent, milk fat, had been in part omitted; and, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

DISPOSITION: December 10, 1947. A plea of guilty having been entered, the defendant was fined \$100 and costs.

12880. Adulteration of butter. U. S. v. Creameries of America, Inc. (Arden Sunfreze Creameries, Inc.) Plea of guilty. Fine, \$100. (F. D. C. No. 24087. Sample No. 28706-H.)

INFORMATION FILED: January 30, 1948, District of Utah, against Creameries of America, Inc., trading as Arden Sunfreze Creameries, Inc., Salt Lake City, Utah.

ALLEGED VIOLATION: The defendant was charged with giving a false guaranty. The guaranty was given to Armour & Company of Chicago, Ill., on or about July 22, 1947. It provided that any article comprising a shipment or delivery made by the defendant to the latter firm would be neither adulterated nor misbranded within the meaning of the Federal Food, Drug, and Cosmetic Act.

On or about October 2, 1947, the defendant sold and delivered to Armour & Company a quantity of butter that was adulterated. Armour & Company prior and subsequent to October 2, 1947, was engaged in the business of introducing and delivering for introduction into interstate commerce quantities of the food product supplied by the defendant.

LABEL, IN PART: "Cloverbloom Butter Armour Creameries Distributors."

NATURE OF CHARGE: Adulteration, Section 402 (b) (1), a valuable constituent, milk fat, had been in part omitted from the product; and, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

DISPOSITION: March 19, 1948. A plea of guilty having been entered on behalf the defendant, a fine of \$100 was imposed.

12881. Adulteration of butter. U. S. v. 341 Cartons (21,824 pounds) * * *. (F. D. C. No. 24359. Sample Nos. 15022-K, 15113-K.)

LIBEL FILED: January 5, 1948, Northern District of Illinois.

ALLEGED SHIPMENT: On or about November 5, 1947, by the Denison Poultry Feed & Egg Co., from Denison, Tex.

PRODUCT: 341 64-pound cartons of butter at Chicago, Ill.

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

DISPOSITION: January 12, 1948. L. D. Schreiber & Co., Inc., Chicago, Ill., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond for reworking under the supervision of the Federal Security Agency.

12882. Adulteration of butter. U. S. v. 23 Cartons, etc. (1,600 pounds, total). (F. D. C. No. 24358. Sample No. 36444-K.)

LIBEL FILED: January 20, 1948, Western District of Washington.

ALLEGED SHIPMENT: On or about January 14, 1948, by Troy Dairy Products, from Troy, Idaho.

PRODUCT: 23 64-pound cartons, 2 32-pound cartons, and 1 64-pound box, of butter at Seattle, Wash.

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

DISPOSITION: January 23, 1948. Troy Dairy Products, claimant, having admitted the allegations of the libel, judgment of condemnation was entered and

the product was ordered released under bond to be rechurned under the supervision of the Food and Drug Administration.

12883. Adulteration of butter. U. S. v. 17 64-Pound Cubes * * *. (F. D. C. No. 24335. Sample Nos. 15026-K, 15118-K.)

LIBEL FILED: January 7, 1948, Northern District of Illinois.

ALLEGED SHIPMENT: On or about July 28, 1947, by Burkey's Creamery, Cushing, Okla.

PRODUCT: 17 64-pound cubes of butter at Chicago, Ill.

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

DISPOSITION: February 3, 1948. The Harry H. Redfearn Co., Chicago, Ill., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond to be reworked under the supervision of the Food and Drug Administration.

12884. Misbranding of butter. U. S. v. 121 Cases * * *. (F. D. C. No. 24717. Sample No. 4482-K.)

LIBEL FILED: On or about March 19, 1948, District of Connecticut.

ALLEGED SHIPMENT: On or about February 17, 1948, by Gildener & Schimmel, Inc., from New York, N. Y.

PRODUCT: 121 cases, each containing 30 1-pound prints, of butter at New York, N. Y.

LABEL, IN PART: "Creamery Butter Packed by A. Gildener Co. New York, N. Y."

NATURE OF CHARGE: Misbranding, Sections 403 (a) and 403 (e), the prints of the butter did not contain "1 Lb. Net" as labeled.

DISPOSITION: April 14, 1948. Gildener & Schimmel, Inc., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be reprinted to the correct weight, under the supervision of the Federal Security Agency.

CHEESE*

12885. Adulteration of Swiss cheese. U. S. v. Star Valley Swiss Cheese Association, Carl Erickson, and Ernest Brog. Pleas of guilty. Corporation fined \$96; individuals each fined \$2. (F. D. C. No. 23281. Sample Nos. 44338-H, 45691-H.)

INFORMATION FILED: September 30, 1947, District of Idaho, against the Star Valley Swiss Cheese Association, a corporation, Freedom, Idaho, and Carl Erickson, president, and Ernest Brog, general manager.

ALLEGED SHIPMENT: On or about July 13 and 17, 1946, from the State of Idaho into the State of California.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a filthy substance by reason of the presence of rodent excreta, mites, mold, and nondescript dirt; and, Section 402 (a) (4), it had been prepared, packed, and held under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: February 13, 1948. Pleas of guilty having been entered, the corporation was fined \$96, and each individual defendant, \$2.

12886. Adulteration of process cheese. U. S. v. Wilshire Cheese Co., Inc. Plea of nolo contendere. Fine, \$75. (F. D. C. No. 23282. Sample Nos. 49123-H, 67078-H, 67382-H.)

INFORMATION FILED: July 16, 1947, Western District of Missouri, against the Wilshire Cheese Co., Inc., Springfield, Mo.

ALLEGED SHIPMENT: On or about October 2 and 7, 1946, from the State of Missouri into the States of Texas, Oklahoma, and Kansas.

LABEL, IN PART: "Borden's [or "Wilson & Co."] * * * Pasteurized Process Cheese."

*See also No. 12872.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a filthy substance by reason of the presence of manure fragments, plant fragments, cow hair, and insect fragments.

DISPOSITION: October 6, 1947. A plea of nolo contendere having been entered on behalf of the defendant, a fine of \$75 was imposed.

12887. Adulteration of process cheese. U. S. v. 100 Cases * * *. (F. D. C. No. 23084. Sample No. 73522-H.)

LIBEL FILED: June 20, 1947, Northern District of Ohio.

ALLEGED SHIPMENT: On or about May 16, 1947, by the Kraft Foods Co., from Freeport, Ill.

PRODUCT: 100 cases, each containing 12 2-pound boxes, of process cheese at Toledo, Ohio.

LABEL, IN PART: "Kraft American Pasteurized Process Cheese."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of manure fragments, insect fragments, and nondescript dirt, and by reason of the use of filthy milk in its preparation.

DISPOSITION: February 11, 1948. The Kraft Foods Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond, conditioned that it be disposed of in compliance with the law, under the supervision of the Federal Security Agency.

12888. Adulteration and misbranding of Cheddar cheese. U. S. v. Dubuque Cooperative Dairy Marketing Association, a corporation, and Charles C. Kauffmann. Pleas of guilty. Corporation fined \$200 and costs; individual fined \$20. (F. D. C. No. 22003. Sample Nos. 51078-H, 51485-H.)

INFORMATION FILED: December 10, 1947, Northern District of Iowa, against the Dubuque Cooperative Dairy Marketing Association, Dubuque, Iowa, and Charles C. Kauffmann, manager.

ALLEGED SHIPMENT: On or about March 18 and July 8, 1946, from the State of Iowa into the State of Wisconsin.

LABEL, IN PART: (One shipment) "Iowa White"; (remaining shipment) "Cheddar Cheese."

NATURE OF CHARGE: Adulteration, Section 402 (b) (1), a valuable constituent, milk fat, had been in part omitted from the product since it contained less than 50 percent of milk fat in its solids; and, Section 402 (b) (2), a substance containing less than 50 percent of milk fat in its solids, a portion of which contained more than 39 percent of moisture, had been substituted for Cheddar cheese, a standardized product.

Misbranding, Section 403 (g) (1), the product failed to conform to the definition and standard of identity for Cheddar cheese, since it contained in its solids less milk fat than required by the standard, and a portion contained more moisture than permitted by the standard; and, Section 403 (g) (2), one shipment failed further to conform to the definition and standard of identity, since it failed to bear the name of the food specified in the definition and standard, i. e., Cheddar cheese.

DISPOSITION: December 10, 1947. Pleas of guilty having been entered, the corporation was fined \$200 and costs and the individual defendant was fined \$20.

12889. Adulteration and misbranding of Cheddar cheese. U. S. v. 608 Boxes * * *. (F. D. C. No. 13292. Sample No. 66953-F.)

LIBEL FILED: On or about August 25, 1944, Western District of Missouri.

ALLEGED SHIPMENT: On or about June 17, 1944, by Swift & Co., Salina, Kans.

PRODUCT: 608 boxes, each containing 3 20-pound daisies, of Cheddar cheese at Kansas City, Mo.

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), a product deficient in milk fat had been substituted for Cheddar cheese.

Misbranding, Section 403 (g) (1), the product failed to conform to the definition and standard of identity for Cheddar cheese, since its solids contained less than 50 percent of milk fat, the minimum milk fat permitted by the regulations.

DISPOSITION: October 20, 1944. Swift & Company having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond, conditioned that the portions that did not conform to the definition and standard of identity be reprocessed under the supervision of the Food and Drug Administration.

12890. Adulteration and misbranding of Cheddar cheese. U. S. v. 119 Boxes
* * *. (F. D. C. No. 23553. Sample No. 87222-H.)

LIBEL FILED: August 6, 1947, District of Massachusetts.

ALLEGED SHIPMENT: On or about June 10, 1947, by the Kraft Foods Co., from Troy, Vt.

PRODUCT: 119 boxes, each containing 40-pounds, of Cheddar cheese at Boston, Mass.

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), a product deficient in milk fat had been substituted in whole or in part for Cheddar cheese.

Misbranding, Section 403 (g) (1), the article failed to conform to the definition and standard of identity for Cheddar cheese, since it contained in its solids less than 50 percent of milk fat, the minimum permitted by the definition and standard.

DISPOSITION: September 19, 1947. The Kraft Foods Co., Chicago, Ill., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond for conversion into processed cheese or cheese food containing the requisite fat requirements, or other legal product, under the supervision of the Federal Security Agency.

12891. Adulteration of Cheddar cheese. U. S. v. 153 Boxes, etc. (F. D. C. No. 23380. Sample Nos. 60483-H, 60484-H, 60493-H to 60495-H, incl., 60499-H, 60500-H.)

LIBEL FILED: July 29, 1947, Western District of Pennsylvania.

ALLEGED SHIPMENT: On or about June 25, 1947, by the Supreme Dairy Products Co., from Toluca, Ill.

PRODUCT: 345 70-pound boxes of Cheddar cheese at Curwensville, Pa.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of manure fragments and insect fragments, and by reason of the use of filthy milk in its preparation.

DISPOSITION: March 12, 1948. Default decree of condemnation and destruction.

12892. Adulteration of Cheddar cheese. U. S. v. 154 Boxes * * *. (F. D. C. No. 23379. Sample Nos. 60496-H to 60498-H, incl.)

LIBEL FILED: July 29, 1947, Western District of Pennsylvania.

ALLEGED SHIPMENT: On or about June 21, 1947, by the Supreme Dairy Products Co., from Macomb, Ill.

PRODUCT: 154 boxes, each containing approximately 70 pounds, of Cheddar cheese at Curwensville, Pa.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insect fragments and manure fragments, and by reason of the use of filthy milk in its preparation; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: March 12, 1948. Default decree of condemnation and destruction. The Supreme Dairy Products Co., Macomb, Ill., having appeared as claimant, but subsequently having withdrawn its claim and answer, judgment of condemnation was entered and the product was ordered destroyed.

MISCELLANEOUS DAIRY PRODUCTS*

12893. Adulteration of ice cream. U. S. v. Samuel G. Steele (Steele's Dairy).
Plea of guilty. Fine, \$50 and costs. (F. D. C. No. 20979. Sample No. 40464-H.)

INFORMATION FILED: September 2, 1946, Western District of Missouri, against Samuel G. Steele, an individual trading as Steele's Dairy, at West Plains, Mo.

*See also No. 12873.

ALLEGED SHIPMENT: On or about August 21, 1946, from the State of Missouri into the State of Arkansas.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a filthy substance by reason of the presence of manure fragments; and, Section 402 (a) (4), it had been prepared and packed under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: April 7, 1947. A plea of guilty having been entered, the defendant was fined \$50 and costs.

12894. Adulteration of raw goat rennet. U. S. v. 3 Barrels * * *. (F. D. C. No. 21394. Sample Nos. 48535-H, 48539-H, 51886-H.)

LIBEL FILED: October 29, 1946, Western District of Wisconsin.

ALLEGED SHIPMENT: On or about September 17 and 24 and October 1, 1946, by Frank Maria, from Trinidad, Colo.

PRODUCT: 3 530-pound barrels of raw goat rennet in original kid stomach at Cumberland, Wis.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insects, insect fragments, rodent hairs, goat hairs, feather barbules, and nondescript dirt.

DISPOSITION: April 22, 1947. The Stella Cheese Company, Cumberland, Wis., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond, conditioned that it be cleaned so as to permit its use for human consumption, under the supervision of the Federal Security Agency.

EGGS AND EGG PRODUCTS

12895. Adulteration of frozen whole eggs. U. S. v. Israel E. Kaplan (Farmers Produce Co.), and Fred R. Graves. Pleas of guilty. Israel E. Kaplan fined \$125 and costs; Fred R. Graves fined \$5. (F. D. C. No. 24071. Sample No. 69220-H.)

INFORMATION FILED: March 10, 1948, Northern District of Iowa, against Israel E. Kaplan, trading as the Farmers Produce Co., at Cherokee, Iowa, and Fred R. Graves, manager.

ALLEGED SHIPMENT: On or about July 5, 1947, from the State of Iowa into the State of Illinois.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a decomposed substance by reason of the presence of decomposed eggs.

DISPOSITION: March 10, 1948. Pleas of guilty having been entered, Israel E. Kaplan was fined \$125 and costs and Fred R. Graves was fined \$5.

12896. Adulteration of frozen whole eggs. U. S. v. North American Creameries, Inc. Plea of guilty. Fine, \$1,000. (F. D. C. No. 22022. Sample Nos. 51432-H, 51537-H, 51538-H, 51542-H, 51543-H.)

INFORMATION FILED: March 18, 1947, District of North Dakota, against the North American Creameries, Inc., Oakes, N. Dak.

ALLEGED SHIPMENT: On or about May 22 and June 26, 1946, from the State of North Dakota into the State of Minnesota.

LABEL, IN PART: "Packed By North American Creameries, Inc. General Offices Minneapolis, Minnesota Whole Eggs," or "Arvilla Egg * * * Packed by North American Creameries, Inc. General Offices Minneapolis, Minnesota."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in part of a decomposed substance by reason of the presence of decomposed eggs.

DISPOSITION: January 9, 1948. A plea of guilty having been entered, the court imposed fines of \$350 on each of counts 1 and 2 and \$300 on count 3 of the information.

12897. Adulteration of frozen whole eggs. U. S. v. Watertown Egg & Produce Co. Plea of guilty. Fine, \$200. (F. D. C. No. 23565. Sample No. 39173-H.)

INFORMATION FILED: September 15, 1947, Western District of Wisconsin, against the Watertown Egg & Produce Co., a corporation, Watertown, Wis.

ALLEGED SHIPMENT: On or about February 10, 1947, from the State of Wisconsin into the State of Illinois.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a decomposed substance by reason of the presence of decomposed eggs.

DISPOSITION: October 10, 1947. A plea of guilty having been entered, the defendant was fined \$200.

12898. Adulteration of frozen eggs. U. S. v. Swift & Co. Plea of guilty. Fine, \$50. (F. D. C. No. 24095. Sample No. 3901-K.)

INFORMATION FILED: February 9, 1948, District of South Dakota, against Swift & Co., a corporation, Huron, S. Dak.

ALLEGED SHIPMENT: On or about July 19, 1947, from the State of South Dakota into the State of Maryland.

LABEL, IN PART: "Gold Crest Frozen Eggs."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a decomposed substance by reason of the presence of decomposed eggs.

DISPOSITION: March 4, 1948. A plea of guilty having been entered on behalf of the defendant, a fine of \$50 was imposed.

12899. Adulteration of frozen whole eggs. U. S. v. 200 Cans * * *. (F. D. C. No. 24458. Sample No. 14458-K.)

LIBEL FILED: March 10, 1948, Northern District of Illinois.

ALLEGED SHIPMENT: On or about November 6, 1947, by the Carl Otten Poultry Co., from Kansas City, Mo.

PRODUCT: 200 30-pound cans of frozen whole eggs at Chicago, Ill.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance. (Examination showed the presence of decomposed eggs.)

DISPOSITION: March 15, 1948. C. F. Foley Co., Chicago, Ill., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond, conditioned that the fit portion be segregated from the unfit, under the supervision of the Food and Drug Administration.

12900. Adulteration of frozen whole egg whites and frozen egg yolks. U. S. v. 12 Cans, etc. (F. D. C. No. 24406. Sample Nos. 37421-K, 37422-K.)

LIBEL FILED: January 10, 1948, District of Oregon.

ALLEGED SHIPMENT: On or about March 22 and May 27, 1947, by the Fergus County Creamery, Inc., from Lewiston, Mont.

PRODUCT: 12 30-pound cans of frozen whole eggs and 49 30-pound cans of frozen egg yolks at Portland, Oreg.

LABEL, IN PART: "Armour's Cloverbloom Frozen Whole Eggs [or "Egg Yolks"] Armour Creameries, Chicago, Ill."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the articles consisted in whole or in part of decomposed substances.

DISPOSITION: March 2, 1948. The Fergus County Creamery, Inc., claimant, having admitted that a small portion of the articles was adulterated, but having denied that the whole of the articles was adulterated, and having consented to the entry of a decree, judgment of condemnation was entered. The decree provided that the produce be released under bond, conditioned upon the segregation and the repacking of the good cans, under the supervision of the Federal Security Agency. On March 9, 1948, the adulterated cans of the articles which had been segregated were ordered destroyed.

12901. Adulteration of dried egg yolk. U. S. v. 7 Drums * * *. (F. D. C. No. 24414. Sample No. 24042-K.)

LIBEL FILED: January 19, 1948, Western District of Wisconsin.

ALLEGED SHIPMENT: On or about November 18, 1947, by the Ohio Pure Food Co., from Pomeroy, Ohio.

PRODUCT: 7 drums, each containing 50 pounds, of dried egg yolk at Wausau, Wis.

LABEL, IN PART: "Super K10 Powder Spray Powdered Egg Yolk."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of metal fragments, insect fragments, rodent hair fragments, and mites; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: March 15, 1948. Default decree of forfeiture. The product was ordered denatured and sold, or otherwise disposed of, for purposes other than human consumption; otherwise, it was to be destroyed.

FEEDS AND GRAINS

12902. Adulteration and misbranding of canned dog food. U. S. v. George C. Melody. Plea of nolo contendere. Defendant sentenced to 5 days' imprisonment and fined \$1.00 and costs. (F. D. C. No. 22056. Sample Nos. 34179-H, 34180-H, 42958-H, 61130-H, 61210-H, 61217-H.)

INFORMATION FILED: June 24, 1947, Western District of Pennsylvania, against George C. Melody, Greensburg, Pa.

ALLEGED SHIPMENT: Between the approximate dates of November 6 and December 19, 1946, from the State of Pennsylvania into the States of Maryland and New York and the District of Columbia.

LABEL, IN PART: "Dr. Melody's Dog Food * * * Protein 7.00% Min."

NATURE OF CHARGE: Adulteration, Section 402 (b) (1), a valuable constituent, protein, had been in part omitted.

Misbranding, Section 403 (a), the label statement "Protein 7.00% Min." was false and misleading, since the product contained less than 7 percent of protein.

DISPOSITION: December 2, 1947. A plea of nolo contendere having been entered, the court sentenced the defendant to 5 days in jail and imposed a fine of \$1.00 and costs on count 1. A fine of \$400 and imprisonment for an additional 60 days on the remaining 11 counts of the information was imposed, which fine and sentence were suspended, and the defendant was placed on probation for a period of 1 year.

12903. Misbranding of dairy feed. U. S. v. Temple Cotton Oil Co. Plea of nolo contendere. Fine, \$75 and costs. (F. D. C. No. 23278. Sample Nos. 33282-H to 33284-H, incl.)

INFORMATION FILED: July 2, 1947, Western District of Arkansas, against the Temple Cotton Oil Co., a corporation, Arkadelphia, Ark.

ALLEGED SHIPMENT: On or about June 22 and 29 and July 16, 1946, from the State of Arkansas into the State of Texas.

LABEL, IN PART: (tags) "Tempco Brand Turkey Growing Mash," or "Tempco Brand 20% [or "16%"] Protein Dairy Feed * * * Manufactured By Temple Feed Mills."

NATURE OF CHARGE: Misbranding, Section 403 (a), the label statements "Crude Protein not less than 21.00 Per Cent" and "Crude Fat not less than 4.00 Per Cent" on the label of the Turkey Growing Mash were false and misleading, since the product contained less than 21 per cent of crude protein and less than 4 per cent of crude fat. The statements "Crude Protein not less than 20.00 Per Cent" and "Crude Protein not less than 16.00 Per Cent" on the labels of the Dairy Feed were false and misleading, since the products contained less than the labeled amounts of crude protein.

DISPOSITION: September 1, 1947. A plea of nolo contendere having been entered, the defendant was fined \$75, together with costs.

FISH AND SHELLFISH

12904. Adulteration of frozen haddock fillets. U. S. v. 4,720 Pounds * * *. (F. D. C. No. 24386. Sample Nos. 4885-K, 4886-K.)

LIBEL FILED: March 17, 1948, District of Massachusetts.

ALLEGED SHIPMENT: On or about February 19, 1948, by the Mayflower Fisheries and the Busalacchi Bros. Co., from Chicago, Ill. This was a return shipment.

PRODUCT: 4,720 pounds of frozen haddock fillets at Boston, Mass.

LABEL, IN PART: "Aborn Brand Fillets Frozen Haddock."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a putrid substance (putrid fish).

DISPOSITION: April 5, 1948. Default decree of condemnation and destruction.

12905. Adulteration of frozen ling fillets. U. S. v. 148 Boxes, etc. (F. D. C. No. 24377. Sample No. 3648-K.)

LIBEL FILED: March 10, 1948, District of Maryland.

ALLEGED SHIPMENT: On or about February 13, 1948, by the Del Bay Sea Foods Co., Inc., from Lewes, Del.

PRODUCT: 214 15-pound boxes of frozen ling fillets at Baltimore, Md.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a putrid substance (putrid fish).

DISPOSITION: April 12, 1948. Default decree of condemnation and destruction.

12906. Adulteration of frozen rosefish fillets. U. S. v. 1,341 Cartons * * *. (F. D. C. No. 23383. Sample No. 15562-H.)

LIBEL FILED: August 4, 1947, Northern District of Illinois.

ALLEGED SHIPMENT: On or about July 3, 1947, by the North Atlantic Fish Co., from Gloucester, Mass.

PRODUCT: 1,341 cartons, each containing 10 pounds, of frozen rosefish fillets at Chicago, Ill.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of parasites.

DISPOSITION: October 13, 1947. The North Atlantic Fish Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond for segregation and denaturing of the unfit portion, under the supervision of the Federal Security Agency. The amount seized was 1,499 cartons, and the segregation operations resulted in the classification of 218 cartons as unfit.

12907. Adulteration of frozen sardines. U. S. v. 953 Pounds * * *. (F. D. C. No. 23716. Sample No. 8703-K.)

LIBEL FILED: September 24, 1947, Southern District of New York.

ALLEGED SHIPMENT: On or about August 28, 1947, by Tony Cugnato, from Gloucester, Mass.

PRODUCT: 953 pounds of frozen sardines at New York, N. Y.

NATURE OF CHARGE: Adulteration, Section 402 (a) (5), the article was in whole or in part the product of a diseased animal.

DISPOSITION: March 25, 1948. Default decree of condemnation and destruction.

12908. Adulteration of crab meat. U. S. v. United Sea Food Co. Plea of nolo contendere. Fine, \$250. (F. D. C. No. 21490. Sample Nos. 776-H, 777-H, 1520-H, 54531-H, 54549-H.)

INFORMATION FILED: December 27, 1946, Northern District of Florida, against the United Sea Food Co., a partnership, Apalachicola, Fla.

ALLEGED SHIPMENT: On or about June 20, 1945, and June 10, 11, and 18, 1946, from the State of Florida into the States of New York, Maryland, and Pennsylvania.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in part of a filthy substance by reason of the presence of fecal *Escherichia coli*; and, Section 402 (a) (4), it had been prepared and packed under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: April 7, 1947. A plea of nolo contendere having been entered, the court imposed a fine of \$250.

12909. Adulteration of crab meat. U. S. v. 112 Cans * * *. (F. D. C. No. 24391. Sample No. 2220-K.)

LIBEL FILED: March 18, 1948, District of Maryland.

ALLEGED SHIPMENT: On or about March 1, 1948, by the Graham Sea Food Co., from Coden, Ala.

PRODUCT: 112 1-pound cans of crab meat at Baltimore, Md.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of decomposed crab meat.

DISPOSITION: April 21, 1948. Default decree of condemnation and destruction.

12910. Misbranding of canned shrimp. U. S. v. L. Lopez' Sons, a partnership, and John B. Lopez and Florian S. Lopez. Pleas of nolo contendere. Partnership fined \$100; individual defendants each fined \$50. (F. D. C. No. 23210. Sample Nos. 41962-H, 64227-H.)

INFORMATION FILED: August 28, 1947, Eastern District of Louisiana, against L. Lopez' Sons, Phoenix, La., and John B. Lopez and Florian S. Lopez, partners.

ALLEGED SHIPMENT: On or about September 5 and 18, 1946, from the State of Louisiana into the States of Virginia and New York.

LABEL, IN PART: "Lopez Brand Drained Weight 7 Oz. Wet Pack Large Shrimp."

NATURE OF CHARGE: Misbranding, Section 403 (e) (2), the product failed to bear a label containing an accurate statement of the quantity of the contents, since the drained weight of the product was less than the labeled weight of 7 ounces. Further misbranding, Section 403 (h) (2), the product failed to conform to the standard of fill of container for canned wet pack shrimp in non-transparent containers, since the cut-out weight of the shrimp taken from each can was less than 64 percent of the water capacity of the container, and the label failed to bear the substandard legend.

DISPOSITION: February 12, 1948. Pleas of nolo contendere having been entered, the partnership was fined \$100 and the individual defendants were each fined \$50.

SEA FOOD PRODUCTS

12911. Adulteration and misbranding of crab cocktail. U. S. v. 24 Cases * * *. (F. D. C. No. 20241. Sample No. 5384-H.)

LIBEL FILED: On or about June 13, 1946, District of New Jersey.

ALLEGED SHIPMENT: On or about April 29 and 30, 1946, by Holland's Frosted Foods, from Sacramento, Calif.

PRODUCT: 24 cases, each containing 72 cups, of crab cocktail at Camden, N. J. Examination showed that the product was short-weight and that it contained not more than 20 percent of crab meat.

LABEL, IN PART: "Holland's Brand Crab Cocktail Ingredients: Crab Meat, Tomato Catsup * * * 4 Oz."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), a product consisting largely of tomato sauce with about 20 percent crab meat had been substituted for crab cocktail.

Misbranding, Section 403 (e) (2), the product failed to bear a label containing an accurate statement of the quantity of the contents.

DISPOSITION: July 16, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to a charitable institution.

12912. Adulteration of crab meat cocktail. U. S. v. 9 Cases * * *. (F. D. C. No. 21812. Sample No. 52202-H.)

LIBEL FILED: December 2, 1946, District of Minnesota.

ALLEGED SHIPMENT: On or about May 29, 1946, by the John Inglis Co., from Stockton, Calif.

PRODUCT: 9 cases, each containing 32 packages of 6 3-ounce cartons, of crab meat cocktail at Minneapolis, Minn.

LABEL, IN PART: "Snow Boy Brand Crab Meat Cocktail * * * Produced by Frozen Cooked Foods Co. Oakland, Calif."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), a product consisting largely of tomato sauce and condiments, with about 25 percent of crab meat, had been substituted for crab meat cocktail.

DISPOSITION: March 27, 1947. No claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to charitable institutions.

12913. Adulteration of frozen crab cocktail and frozen oyster cocktail. U. S. v. 269 Cases * * * (and 1 other seizure action). (F. D. C. No. 21210. Sample Nos. 64328-H, 64329-H, 64333-H.)

LIBELS FILED: October 2, 1946, Southern District of New York.

ALLEGED SHIPMENT: On or about August 1, 1946, by the Island Seafood Co., Inc., Everett, Wash.

PRODUCT: 269 cases, each containing 42 7-ounce packages, of frozen crab cocktail and 150 cases, each containing 42 7-ounce packages, of frozen oyster cocktail at New York, N. Y.

LABEL, IN PART: "Deep-Pak Frozen Fresh Sea Food Dungeness Crab Cocktail [or "Pacific Oyster Cocktail"]."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), a product consisting largely of tomato sauce containing about 25 percent oysters, in the oyster cocktail, and 35 percent crab meat, in the crab cocktail, had been substituted for oyster cocktail and crab cocktail, respectively.

Misbranding, Section 403 (a), the names "Crab Cocktail" and "Oyster Cocktail" were false and misleading.

DISPOSITION: On January 3 and May 8, 1947, the Island Seafood Co., Inc., claimant for the crab cocktail, and the Famous Frosted Food Corp., claimant for the oyster cocktail, having admitted the allegations of the respective libels, judgments of condemnation were entered and the products were ordered released under bond, conditioned that they be relabeled.

On June 9 and 18, 1947, the claimant for the crab cocktail having failed to carry out the terms and conditions of the decree, amended decrees were entered ordering the product condemned but permitting its delivery to charitable institutions.

12914. Adulteration and misbranding of oyster cocktail. U. S. v. 21 Cases * * *. (F. D. C. No. 23364. Sample No. 75251-H.)

LIBEL FILED: July 16, 1947, District of Nevada.

ALLEGED SHIPMENT: On or about June 3, 1947, by H. F. Walker, from Oakland, Calif.

PRODUCT: 21 cases, each containing 48 3½-ounce jars, of oyster cocktail at Reno, Nev.

LABEL, IN PART: "Sail Boat Seafood Cocktail Oyster * * * Contains Water Vinegar Catsup and Spices."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), a product consisting largely of spiced tomato sauce with about 15 percent of oyster meat had been substituted for oyster cocktail.

Misbranding, Section 403 (a), the label designation "Seafood Cocktail Oyster" was misleading as applied to a product consisting largely of spiced tomato sauce with about 15 percent of oyster meat.

DISPOSITION: September 3, 1947. Default decree of condemnation and destruction.

12915. Adulteration of frozen oyster stew and frozen oyster cocktail. U. S. v. 492 Packages, etc. (F. D. C. No. 22799. Sample Nos. 76347-H to 76349-H, incl.)

LIBEL FILED: April 1, 1947, Eastern District of Louisiana.

ALLEGED SHIPMENT: On or about February 28, 1947, by Sterling Point Frosted Foods, from Jersey City, N. J.

PRODUCT: 492 15-ounce packages of frozen oyster stew and 336 packages of frozen oyster cocktail at New Orleans, La.

LABEL, IN PART: "Oyster Stew with Milk Bay Leaf Brand [or "Oyster Cocktail with Sauce"] New Orleans Style Frozen Cooked Specialties, Inc., New Orleans, Louisiana."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the articles were unfit for food by reason of contamination with iron rust and paraffin.

DISPOSITION: May 2, 1947. No claimant having appeared, judgment of condemnation was entered and the products were ordered destroyed.

12916. Adulteration of canned oyster soup and canned shrimp Creole. U. S. v. 37 Cases, etc. (and 2 other seizure actions). (F. D. C. Nos. 19870, 19871, 20033. Sample Nos. 46201-H, 46206-H, 46212-H, 46213-H.)

LIBELS FILED: May 21 and 31, 1946, Northern District of California.

ALLEGED SHIPMENT: On or about January 26, 1946, by the Creole Food Co. of New Orleans, Inc., from New Orleans, La.

PRODUCT: 87 cases, each containing 24 cans, of oyster soup at Sacramento, Calif., and 14 cases, each containing 24 cans, of oyster soup and 16 cases, each containing 24 cans, of shrimp Creole at Stockton, Calif.

LABEL, IN PART: "Laugh-Eat Creole Oyster Soup [or "Shrimp A La Creole"] Net Weight 10½ Ounces."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the articles consisted in whole or in part of filthy substances by reason of the presence of insects, insect parts, and larvae.

DISPOSITION: June 21, 1946. No claimant having appeared, judgments of condemnation were entered and the products were ordered destroyed.

12917. Adulteration of Shrimp a la Creole. U. S. v. 52 Cases * * *. (F. D. C. No. 19958. Sample No. 6532-H.)

LIBEL FILED: May 24, 1946, Southern District of New York.

ALLEGED SHIPMENT: On or about March 29, 1946, by the Creole Food Co. of New Orleans, Inc., from New Orleans, La.

PRODUCT: 52 cases, each containing 24 10½-ounce cans, of Shrimp a la Creole at New York, N. Y. Examination showed that the product consisted of approximately 10 percent shrimp in a thin sauce containing chopped vegetables, the shrimp portion including medium, small, and broken pieces of shrimp. Only a small portion of the whole shrimp in the can was found to have the sand vein removed.

LABEL, IN PART: "Cresca Shrimp a la Creole."

NATURE OF CHARGE: Misbranding, Section 403 (a), the label designation "Shrimp a la Creole" was misleading as applied to a product which contained substantially less than the usual quantity of shrimp found in Shrimp a la Creole or other similar shrimp preparations; and the label statement "Prepared from Jumbo Shrimp with sand vein removed" was false and misleading as applied to a product containing medium, small, and broken pieces of shrimp, and in which only a small proportion of the whole shrimp therein had the sand vein removed.

DISPOSITION: July 10, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

12918. Misbranding of anchovy paste. U. S. v. 40 Cases * * *. (F. D. C. No. 21870. Sample Nos. 72462-H, 72467-H.)

LIBEL FILED: December 23, 1946, District of Colorado.

ALLEGED SHIPMENT: On or about May 31, 1946, by Vita Food Products, Inc., from Chicago, Ill.

PRODUCT: 40 cases, each containing 24 2-ounce jars, of anchovy paste at Denver, Colo. The product was found to be short-weight.

LABEL, IN PART: "Vita Brand Anchovy Paste * * * 2 Ozs. Avoir. Net."

NATURE OF CHARGE: Misbranding, Section 403 (e) (2), the article failed to bear a label containing an accurate statement of the quantity of the contents.

DISPOSITION: February 12, 1947. No claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to a public institution.

12919. Misbranding of clam chowder. U. S. v. 9 Cases * * *. (F. D. C. No. 23785. Sample No. 15579-H.)

LIBEL FILED: October 2, 1947, Eastern District of Michigan.

ALLEGED SHIPMENT: On or about May 2, 1947, by Silver Hill Products, Inc., from Brooklyn, N. Y.

PRODUCT: 9 cases, each containing 6 cans, of clam chowder.

LABEL, IN PART: (Cans) "Edelweiss Net Contents 6 Lbs. 12 Ozs. Manhattan Style Clam Chowder."

NATURE OF CHARGE: Misbranding, Section 403 (e) (2), the article failed to bear a label containing an accurate statement of the quantity of the contents. (The article was short-weight.)

DISPOSITION: November 10, 1947. Default decree of condemnation and destruction. The product was delivered to a Federal institution, for use as hog feed.

12920. Misbranding of clam nectar. U. S. v. 200 Cartons * * *. (F. D. C. No. 21816. Sample No. 72659-H.)

LIBEL FILED: December 5, 1946, District of Utah.

ALLEGED SHIPMENT: On or about October 1, 1946, by the Kelley Clark Co., from Seattle, Wash.

PRODUCT: 200 cartons, each containing 48 15-fluid-ounce cans, of clam nectar at Salt Lake City, Utah. The product was found to be short-volume.

LABEL, IN PART: "Haines Fancy Alaska Clam Nectar Net Weight 15 Fl. Oz. Packed For Haines Oyster Company Seattle, Wash."

NATURE OF CHARGE: Misbranding, Section 403 (e) (2), the article failed to bear a label containing an accurate statement of the quantity of the contents.

DISPOSITION: February 11, 1947. Alaska Sea Foods, Inc., Seattle, Wash., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond for relabeling under the supervision of the Federal Security Agency.

FRUITS AND VEGETABLES

CANNED AND DRIED FRUIT

12921. Misbranding of canned blueberries. U. S. v. 169 Cases * * *. (F. D. C. No. 24427. Sample Nos. 28474-K, 28736-K.)

LIBEL FILED: February 3, 1948, District of Colorado.

ALLEGED SHIPMENT: On or about October 10, 1947, by the H. L. Forhan Co., from Portland, Maine.

PRODUCT: 169 cases, each containing 24 1-pound, 4-ounce cans, of blueberries at Denver, Colo. Examination showed that the product was not fancy, because of excessive cap stems and clusters, and a mushy, soft character, and that the article was packed in water.

LABEL, IN PART: "Raymond Brand Fancy Maine Blueberries." On some of the cans the word "Fancy" was blocked out.

NATURE OF CHARGE: Misbranding, Section 403 (a), the label statement on some of the cans of the article "Fancy Maine Blueberries" was false and misleading as applied to an article that was not fancy grade; and, Section 403 (i) (2), the article was fabricated from two or more ingredients and its label failed to bear the common or usual name of each ingredient, since water was not declared.

DISPOSITION: March 29, 1948. The H. L. Forhan Co., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond for relabeling under the supervision of the Federal Security Agency.

12922. Misbranding of canned peaches. U. S. v. 869 cases * * *. (F. D. C. No. 24116. Sample Nos. 8798-K, 33206-K.)

LIBEL FILED: November 24, 1947, Southern District of New York.

ALLEGED SHIPMENT: On or about October 3, 1947, by Hunt Foods, Inc., from Stockton, Calif.

PRODUCT: 869 cases, each containing 24 1-pound, 13-ounce cans, of peaches at New York, N. Y.

LABEL, IN PART: "Val Vita Brand Sliced Yellow Cling Peaches * * * Packed * * * For Val Vita Food Co. San Francisco, California."

NATURE OF CHARGE: Misbranding, Section 403 (a), the design on the label depicting normal slices of peaches was misleading as applied to an article which contained units not all of which were untrimmed or so trimmed as to preserve normal shape. Further misbranding, Section 403 (h) (1), the quality of the article fell below the standard of quality for sliced yellow cling peaches, since

all units of the article were not untrimmed, or were so trimmed as not to preserve normal shape; and its label failed to bear a statement that it fell below such standard.

DISPOSITION: January 9, 1948. Hunt Foods, Inc., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond for relabeling under the supervision of the Food and Drug Administration.

12923. Misbranding of canned peaches. U. S. v. 370 Cases * * *. (F. D. C. No. 23526. Sample No. 74986-H.)

LIBEL FILED: July 28, 1947, District of Massachusetts.

ALLEGED SHIPMENT: On or about March 18, 1947, by the Manchester Canning Co., Inc., Manchester, N. Y.

PRODUCT: 370 cases, each containing 24 cans, of peaches at Springfield, Mass.

LABEL, IN PART: "Manchester Brand Yellow Freestone Halves Peaches Contents 1 Lb. 13 Oz. Extra Standard Quality."

NATURE OF CHARGE: Misbranding, Section 403 (a), the label statement "Extra Standard Quality" was false and misleading, since the peaches were substandard in quality; Section 403 (e) (2), the product failed to bear a label containing an accurate statement of the quantity of the contents (the cans were short-weight); Section 403 (g) (2), the product was canned peaches, a food for which a definition and standard of identity has been prescribed by regulations, and its label failed to bear, as required by such regulations, the name of the optional packing medium present in the food, i. e., light sirup.

Further misbranding, Section 403 (h) (1), the product failed to conform to the standard of quality for canned peaches, since all of the peach units were not untrimmed, or were so trimmed as not to preserve normal shape; and its label failed to bear the substandard legend.

DISPOSITION: February 27, 1948. The Manchester Canning Co., Inc., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond to be relabeled under the supervision of the Food and Drug Administration.

12924. Misbranding of canned fruit cocktail. U. S. v. 373 Cases, etc. (F. D. C. No. 22744. Sample Nos. 62591-H, 62592-H.)

LIBEL FILED: March 31, 1947, District of Maine.

ALLEGED SHIPMENT: On or about February 19, 1947, by the United States Products Corporation, Ltd., from San Jose, Calif.

PRODUCT: 373 cases, each containing 24 1-pound, 14-ounce cans, and 271 cases, each containing 6 6-pound, 12-ounce cans, of fruit cocktail at Portland, Maine.

LABEL, IN PART: "Superba Fruit Cocktail," and "Milliken Tomlinson Company's Superba Brand Fruit Cocktail."

NATURE OF CHARGE: Misbranding, Section 403 (g) (1), the article failed to conform to the definition and standard of identity for canned fruit cocktail, since it contained in the mixture of drained fruit more than 50 percent by weight of pitted, peeled, and diced peaches, the maximum permitted by the standard, and less than 6 percent of whole grapes, the minimum permitted by the standard.

Further misbranding, Section 403 (h) (2), the article fell below the standard of fill of container for canned fruit cocktail, which standard provides that the total weight of the drained fruit is not less than 65 percent of the weight of water required to fill the container; and its label failed to bear a statement that it fell below the standard of fill of container.

DISPOSITION: October 24, 1947. The United States Products Corporation, Ltd., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond for the relabeling or the refilling of the containers, or, otherwise, for the reprocessing of the product, so that it would comply with the requirements of the law, under the supervision of the Federal Security Agency.

12925. Adulteration of dried prunes. U. S. v. 52 Cases * * *. (F. D. C. No. 24430. Sample No. 36613-K.)

LIBEL FILED: February 4, 1948, Western District of Washington.

ALLEGED SHIPMENT: On or about November 21, 1947, by the Hudson Duncan Co., from Dundee, Oreg.

PRODUCT: 52 25-pound cases of dried prunes at Tacoma, Wash.

LABEL, IN PART: "Stadium Brand."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insect fragments and rodent hair fragments; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: March 3, 1948. Default decree of condemnation. The product was ordered delivered to an institution, for use as stock feed.

FROZEN FRUIT*

12926. Adulteration and misbranding of frozen cherries. U. S. v. 3,731 Cases
* * *. (F. D. C. No. 21906. Sample Nos. 64961-H, 64962-H.)

LIBEL FILED: December 3, 1946, Southern District of New York.

ALLEGED SHIPMENT: On or about June 24 and 25, 1946, by Midfield Packers, from Olympia, Wash.

PRODUCT: 3,731 cases, each containing 24 1-pound packages, of frozen cherries at New York, N. Y.

LABEL, IN PART: (Package) "Frosted Foods Cortley * * * Black Pitted Cherries * * * Distributed by Cortley Frosted Foods New York."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), partially pitted cherries had been substituted in whole or in part for pitted cherries.

Misbranding, Section 403 (a), the label statement "Black Pitted Cherries" was false and misleading as applied to partially pitted cherries. (The product contained pits in excess of the number which can be regarded as unavoidable. Under good commercial practice, pits can be kept down to 1 pit per 20 ounces or less.)

DISPOSITION: January 29, 1948. Cortley Frosted Foods, Inc., claimant, having consented to the entry of a decree, judgment was entered ordering that the product be released under bond for the separation of the fit portion from the unfit and the relabeling of the latter, under the supervision of the Food and Drug Administration.

12927. Adulteration of frozen grapes. U. S. v. 50 Barrels * * *. (F. D. C. No. 24024. Sample No. 15111-K.)

LIBEL FILED: December 24, 1947, Northern District of Illinois.

ALLEGED SHIPMENT: On or about October 20, 1947, by the Berrien County Co-operative Fruit Exchange, from Stevensville, Mich.

PRODUCT: 50 375-pound barrels of frozen grapes at Chicago, Ill.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of fly eggs and maggots; and, Section 402 (a) (4), it had been prepared and packed under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: March 24, 1948. Default decree of condemnation and destruction.

12928. Adulteration of frozen raspberries. U. S. v. 84 Barrels * * *. (F. D. C. No. 23937. Sample No. 30901-K.)

LIBEL FILED: October 28, 1947, Southern District of California.

ALLEGED SHIPMENT: On or about July 22, 1947, by the Washington Packers, Inc., from Sumner, Wash.

PRODUCT: 84 barrels, each containing 55 gallons, of frozen raspberries at Los Angeles, Calif.

LABEL, IN PART: "Dewkist Brand."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of larvae.

DISPOSITION: December 15, 1947. The Washington Packers, Inc., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond, conditioned that the fit be separated from the unfit and that the latter be returned to the point

*See also No. 12932.

of shipment to be reprocessed, under the supervision of the Food and Drug Administration.

12929. Adulteration of frozen raspberries. U. S. v. 78 Cartons, etc. (F. D. C. No. 24216. Sample Nos. 2639-K, 2640-K.)

LIBEL FILED: December 26, 1947, District of Columbia.

ALLEGED SHIPMENT: On or about July 23, 1946, by George W. Haxton & Son, Inc., from Oakfield, N. Y.

PRODUCT: 199 shipping cartons, each containing 12 12-ounce cartons, of raspberries at Washington, D. C.

LABEL, IN PART: "New York State Frozen Columbian [or "Red"] Raspberries."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of larvae and other insects, insect fragments, and insect eggs.

DISPOSITION: April 7, 1948. Default decree of condemnation. The product was ordered delivered to the National Zoological Park for its use.

12930. Adulteration of frozen raspberries. U. S. v. 182 Flats * * * (F. D. C. No. 23868. Sample No. 4121-K.)

LIBEL FILED: October 27, 1947, District of Massachusetts.

ALLEGED SHIPMENT: On or about June 30, 1947, by Thomas Cardia, from Hammonton, N. J.

PRODUCT: 182 flats, each containing 12 1-pint boxes, of raspberries at Boston, Mass.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of rotten raspberries.

DISPOSITION: On or about November 14, 1947, Thomas Cardia appeared specially to move dismissal of the action on the ground that the court lacked jurisdiction over the subject matter of the action. The motion was denied on February 5, 1948, and on March 26, 1948, judgment of condemnation was entered and the product was ordered destroyed.

12931. Adulteration of frozen strawberries. U. S. v. 583 Cans * * * (F. D. C. No. 23765. Sample No. 15002-K.)

LIBEL FILED: September 23, 1947, Northern District of Illinois.

ALLEGED SHIPMENT: On or about May 29, 1947, by Frigid Food Products, from Greenfield, Tenn.

PRODUCT: 583 30-pound cans of frozen strawberries at Chicago, Ill.

LABEL, IN PART: "Frigid Fruit Frozen Strictly Fresh Strawberries."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of moldy strawberries.

DISPOSITION: May 3, 1948. Default decree of condemnation and destruction.

MISCELLANEOUS FRUIT PRODUCTS*

12932. Adulteration of red raspberry puree and frozen sliced strawberries. U. S. v. Sunshine Packing Corporation of Pennsylvania, Fred L. Rahal, and Philip H. Seene. Pleas of nolo contendere. Each defendant fined \$500 and costs. (F. D. C. No. 23276. Sample Nos. 9488-H, 50997-H, 50999-H.)

INFORMATION FILED: July 2, 1947, Western District of Pennsylvania, against the Sunshine Packing Corporation of Pennsylvania, North East, Pa., and Fred L. Rahal, president, and Philip H. Seene, assistant treasurer.

ALLEGED SHIPMENT: On or about September 8, 1945, and July 11, 1946, from the State of Pennsylvania into the States of New York and Minnesota.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the products consisted in part of decomposed substances by reason of the presence, in the red raspberry puree, of moldy raspberry material and, in the frozen sliced strawberries, of decomposed strawberry material.

*See also Nos. 12808-12818, 12822-12829.

DISPOSITION: March 5, 1948. Pleas of nolo contendere having been entered, the defendants were each fined \$500, plus costs.

12933. Adulteration of strawberry puree. U. S. v. Breyer Ice Cream Co., a corporation, and Frank S. Bartoletti and Herman Kruse. Pleas of guilty. Corporation fined \$500; individual defendants each fined \$5. (F. D. C. No. 23574. Sample Nos. 5328-H, 65315-H, 65321-H, 65333-H, 65334-H.)

INFORMATION FILED: January 5, 1948, Southern District of Florida, against the Breyer Ice Cream Co., Plant City, Fla., and Frank S. Bartoletti, general manager, and Herman Kruse, plant foreman.

ALLEGED SHIPMENT: On or about April 13, 15, 17, and 20, and May 3, 1946, from the State of Florida into the State of Pennsylvania.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a decomposed substance by reason of the presence of decomposed strawberries.

DISPOSITION: March 4, 1948. Pleas of guilty having been entered, the corporation was fined \$500 and the individual defendants were each fined \$5.

12934. Adulteration of strawberry puree. U. S. v. Brown Packing Co. Plea of guilty. Fine, \$500. (F. D. C. No. 23577. Sample Nos. 63722-H, 63723-H.)

INFORMATION FILED: October 15, 1947, Southern District of Florida, against the Brown Packing Co., a corporation, Plant City, Fla.

ALLEGED SHIPMENT: On or about April 13 and 16, 1946, from the State of Florida into the State of New Jersey.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a decomposed substance by reason of the presence of decomposed strawberries.

DISPOSITION: March 4, 1948. A plea of guilty having been entered on behalf of the defendant, the court imposed a fine of \$500.

12935. Adulteration and misbranding of cherry-pineapple marmalade and raspberry-pineapple marmalade. U. S. v. 19 Cases, etc. (F. D. C. No. 23887. Sample Nos. 8755-K, 8756-K.)

LIBEL FILED: October 31, 1947, Eastern District of New York.

ALLEGED SHIPMENT: On or about March 3, 1947, by the Groveland Products Company, Inc., from Miami, Fla.

PRODUCT: 34 cases, each containing 24 jars, of marmalade at Brooklyn, N. Y.

LABEL, IN PART: "Cherry [or "Raspberry"] Pineapple Marmalade Certified Color and Imitation Flavor Added Net Wt. 1 Lb."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), products containing artificial flavor and artificial color had been substituted for cherry-pineapple and raspberry-pineapple preserves, foods for which a definition and standard of identity has been prescribed by regulations.

Misbranding, Section 403 (g) (1), the products purported to be cherry-pineapple or raspberry-pineapple preserves, and they failed to conform to the definition and standard of identity, since they contained artificial color and artificial flavor, which are not permitted as ingredients in such products; and, Section 403 (a), the label statements "Cherry Pineapple Marmalade" and "Raspberry Pineapple Marmalade" were misleading, since the products had a predominating artificial flavor and contained little or no cherry or raspberry fruit.

DISPOSITION: March 3, 1948. Default decree of condemnation. The products were ordered delivered to a charitable institution.

12936. Adulteration and misbranding of blackberry preserves. U. S. v. 44 Cases * * * (F. D. C. No. 22967. Sample No. 76443-H.)

LIBEL FILED: May 2, 1947, Western District of Louisiana.

ALLEGED SHIPMENT: On or about March 10, 1947, by the Phelan Co., from Beaumont, Tex.

PRODUCT: 44 cases, each containing 12 2-pound jars, of blackberry preserves at De Quincy, La.

LABEL, IN PART: "Tak-A-Taste Brand * * * Pure Blackberry Preserves Packed By Cecil Brown Fig Co., Friendswood, Texas."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), a product of less than 68 percent soluble solids content had been substituted for blackberry preserves.

Misbranding, Section 403 (g) (1), the article failed to conform to the definition and standard of identity for blackberry preserves, since it was made from a mixture composed of less than 45 parts by weight of the fruit ingredient to each 55 parts by weight of the saccharine ingredients; and the article was not concentrated by heat to the point where its soluble solids content amounted to at least 68 percent.

DISPOSITION: December 9, 1947. Default decree of condemnation. The product was ordered delivered to a charitable institution.

12937. Adulteration and misbranding of strawberry preserves. U. S. v. 200 Cases * * *. (F. D. C. No. 22686. Sample No. 44683-H.)

LIBEL FILED: March 12, 1947, District of Arizona.

ALLEGED SHIPMENT: On or about January 2, 1947, by the Pacific Coast Packing Co., from San Diego, Calif.

PRODUCT: 200 cases, each containing 24 1-pound jars, of strawberry preserves at Phoenix, Ariz.

LABEL, IN PART: "Imperial Brand Pure Strawberry Preserves."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), a product containing less than 68 percent soluble solids had been substituted for strawberry preserves.

Misbranding, Section 403 (g) (1), the product failed to conform to the definition and standard of identity for strawberry preserves, since the soluble solids content of the product was less than 68 percent, the minimum permitted by the regulations.

DISPOSITION: May 6, 1947. Default decree of condemnation. The product was ordered delivered to charitable institutions.

12938. Misbranding of jelly. U. S. v. 60 Jars * * *. (F. D. C. No. 24329. Sample No. 4661-K.)

LIBEL FILED: February 2, 1948, District of Massachusetts.

ALLEGED SHIPMENT: On or about December 5, 1947, by the Cinnama-Tang Products Co., from Syracuse, N. Y.

PRODUCT: 60 8-ounce jars of jelly at Boston, Mass.

LABEL, IN PART: "8 Oz. Mint Tang Jelly."

NATURE OF CHARGE: Misbranding, Section 403 (g) (1), the product purported to be fruit jelly, mint flavoring and artificial coloring added, and it failed to conform to the definition and standard of identity prescribed by the regulations for such product, since it contained no fruit juice. The regulations provide that fruit jelly, mint flavoring and artificial coloring added, is made from a mixture of 45 parts by weight of the fruit juice ingredient, or a combination of fruit juice ingredients, extracted from apple, crab apple, pineapple, or any two or all of such fruits, to each 55 parts by weight of the saccharine ingredient, to which has been added mint flavoring and harmless green coloring.

Further misbranding, Section 403 (e) (2), the product failed to bear a label containing an accurate statement of the quantity of the contents. (The jars were short-weight.)

DISPOSITION: March 1, 1948. Default decree of condemnation. The product was ordered delivered to a charitable institution.

12939. Adulteration and misbranding of wine vinegar. U. S. v. Anthony Bertola (A. Bertola & Co.). Plea of guilty. Fine, \$400. (F. D. C. No. 20107. Sample Nos. 16723-H, 18022-H.)

INFORMATION FILED: October 28, 1946, Southern District of New York, against Anthony Bertola, trading as A. Bertola & Co.

ALLEGED SHIPMENT: On or about July 30, 1944, and January 22, 1945, from the State of New York into the State of Illinois.

LABEL, IN PART: "Wine Vinegar."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), an artificially colored mixture of wine vinegar and acetic acid, or distilled vinegar, had been substituted for wine vinegar; and, Section 402 (b) (3), the product was inferior to wine vinegar, and its inferiority had been concealed by the addition of artificial

color. Further adulteration, Section 402 (b) (4), acetic acid or distilled vinegar had been mixed and packed with the article so as to reduce its quality and strength; and artificial color had been mixed and packed with the article so as to make it appear to be wine vinegar.

Misbranding, Section 403 (a), the label statement "Wine Vinegar" was false and misleading.

DISPOSITION: November 29, 1946. A plea of guilty having been entered, the defendant was fined \$400.

VEGETABLES AND VEGETABLE PRODUCTS*

12940. Adulteration and misbranding of canned asparagus. U. S. v. 153 Cases
* * *. (F. D. C. No. 24119. Sample No. 8794-K.)

LIBEL FILED: November 24, 1947, Southern District of New York.

ALLEGED SHIPMENT: On or about July 28, 1947, by the J. William Horsey Corporation, from Woodside, Del.

PRODUCT: 153 cases, each containing 6 1-pound, 3-ounce cans, of asparagus at Bronx, N. Y.

LABEL, IN PART: "Apte All green asparagus Cuts Tips Removed * * *
J. William Horsey Corporation Tampa 1, Florida."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

Misbranding, Section 403 (g) (1), the product failed to conform to the definition and standard of identity for canned asparagus, since it was not sealed in a container and so processed by heat as to prevent spoilage.

DISPOSITION: December 31, 1947. Default decree of condemnation and destruction.

12941. Adulteration of canned pork and beans. U. S. v. Case-Swayne Company, Inc., and Paul W. Case. Pleas of nolo contendere. Corporation fined \$100; Paul W. Case fined \$1. (F. D. C. No. 24080. Sample Nos. 44854-H, 71906-H, 71907-H, 72001-H, 72007-H.)

INFORMATION FILED: March 1, 1948, Southern District of California, against the Case-Swayne Co., Inc., Santa Ana, Calif., and Paul W. Case, president.

ALLEGED SHIPMENT: On or about May 19, 1947, from the State of California into the State of Arizona.

LABEL, IN PART: "Case Swayne Pork and Beans With Tomato Sauce."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a filthy substance by reason of the presence of portions of cooked rat carcass, including rat skin and rodent hairs.

DISPOSITION: March 9, 1948. Pleas of nolo contendere having been entered, the corporation was fined \$100 and the individual defendant was fined \$1.

12942. Adulteration of canned Mexican Style beans. U. S. v. Stokely-VanCamp, Inc. Plea of guilty. Fine, \$350. (F. D. C. No. 23582. Sample No. 76352-H.)

INFORMATION FILED: October 9, 1947, Southern District of Indiana, against Stokely-Van Camp, Inc., Indianapolis, Ind.

ALLEGED SHIPMENT: On or about January 23, 1947, from the State of Indiana into the State of Florida.

LABEL, IN PART: "Van Camp's Mexican Style Beans in Chili Gravy."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article was unfit for food by reason of the presence of foreign inedible material, such as rocks, woody plant stalks, and thorny burrs.

DISPOSITION: October 31, 1947. A plea of guilty having been entered, the court imposed a fine of \$350.

12943. Adulteration of canned Mexican Style beans. U. S. v. 265 Cases
(and 2 other seizure actions). (F. D. C. Nos. 23396, 23425, 23761. Sample Nos. 20654-H, 67497-H, 76584-H, 99876-H.)

LIBELS FILED: August 8 and 25, 1947, District of Nebraska and Northern District of Texas.

*See also No. 12985.

ALLEGED SHIPMENT: Between the approximate dates of October 15, 1946, and February 14, 1947, by Stokely-Van Camp, Inc., Indianapolis, Ind.

PRODUCT: Canned Mexican Style beans. 265 cases at Lincoln, Nebr., 139 cases at Dallas, Tex., and 41 cases at Salina, Kans. Each case contained 24 1-pound, 4-ounce cans.

LABEL, IN PART: "Van Camp's Mexican Style Beans in Chili Gravy."

NATURE OF CHARGE: Adulteration, Section 402 (a) (1), the product contained burrs, an added deleterious substance, which may have rendered it injurious to health.

DISPOSITION: September 26, October 8, and December 16, 1947. No claimants having appeared, judgments of condemnation were entered. The Lincoln lot was ordered destroyed, and the Dallas lot was ordered delivered to an institution, for use as stock feed. The Salina lot was ordered delivered to a charitable institution, for use as human food, the institution having been notified of the deleterious substance present and of the necessity for its removal before being used by the inmates.

12944. Misbranding of canned cut green beans. U. S. v. 398 Cases * * *. (F. D. C. No. 24191. Sample Nos. 36139-K, 36913-K.)

LIBEL FILED: December 29, 1947, Eastern District of Washington.

ALLEGED SHIPMENT: On or about November 5, 1947, by Kolstad Canneries, Inc., from Silverton, Oreg.

PRODUCT: 398 cases, each containing 24 1-pound, 3-ounce cans, of cut green beans at Spokane, Wash.

LABEL, IN PART: "Valley Brand Blue Lake Variety Cut Green Beans."

NATURE OF CHARGE: Misbranding, Section 403 (h) (1), the product fell below the standard of quality for canned cut green beans, since it contained pods or pieces of pods $27/64$ inch or more in diameter and a larger number of tough strings and a greater proportion of fibrous material than permitted by the standard; and it failed to bear the substandard legend.

DISPOSITION: February 10, 1948. Kolstad Canneries, Inc., Silverton, Oreg., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond to be relabeled under the supervision of the Food and Drug Administration.

12945. Adulteration of canned corn. U. S. v. 307 Cases * * *. (F. D. C. No. 24573. Sample No. 26047-K.)

LIBEL FILED: March 25, 1948, Eastern District of Missouri.

ALLEGED SHIPMENT: On or about December 30, 1947, by the Lakeside Packing Co., from Amery, Wis.

PRODUCT: 307 cases, each containing 24 cans, of corn at St. Louis, Mo.

LABEL, IN PART: "A G Brand Cream Style Golden Corn."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of worms and worm parts.

DISPOSITION: April 21, 1948. Default decree of condemnation and destruction.

12946. Adulteration of canned okra. U. S. v. 513 Cases * * *. (F. D. C. No. 21001. Sample No. 49816-H.)

LIBEL FILED: On or about September 20, 1946, Northern District of Florida.

ALLEGED SHIPMENT: On or about July 9 and August 1, 1946, by the Alabama Products Canning Co., from Roanoke, Ala.

PRODUCT: 513 cases, each containing 24 1-pound, 3-ounce cans, of cut okra at Pensacola, Fla.

LABEL, IN PART: "Morris Brand Cut Okra."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

DISPOSITION: November 10, 1947. Hugh L. Morris, claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was released under bond, conditioned that the unfit portion be segregated and destroyed under the supervision of the Food and Drug Administra-

tion. The salvaging operations resulted in the release of 387 cases and 1 can to the claimant as fit for human consumption.

12947. Misbranding of canned okra. U. S. v. 36 Cases * * *. (F. D. C. No. 23783. Sample No. 94153-H.)

LIBEL FILED: September 30, 1947, Eastern District of Missouri.

ALLEGED SHIPMENT: On or about August 1, 1947, by the Pine Grove Canning Co., Inc., from St. Martinville, La.

PRODUCT: 36 cases, each containing 24 1-pound, 3-ounce cans, of okra at St. Louis, Mo.

LABEL, IN PART: "Pine Grove Brand Cut Okra."

NATURE OF CHARGE: Misbranding, Section 403 (g) (1), the article failed to conform to the definition and standard of identity for canned okra, since the article had not been processed by heat so as to prevent spoilage. (Samples of the product were found to be decomposed.)

DISPOSITION: March 26, 1948. Default decree of condemnation and destruction.

12948. Adulteration and misbranding of dried peas. U. S. v. Taylor-Walcott Co., and Herbert W. Walcott. Plea of nolo contendere. Fine, \$2,000. (F. D. C. No. 21538. Sample Nos. 46849-H, 46850-H.)

INFORMATION FILED: January 29, 1947, Northern District of California, against the Taylor-Walcott Co., a partnership, San Francisco, Calif., and Herbert W. Walcott, a partner.

ALLEGED SHIPMENT: On or about February 27 and March 16, 1946, from the State of Washington into the State of California.

ALLEGED VIOLATION: The defendant received the peas at San Francisco, Calif. The peas so received were adulterated, and after receipt in interstate commerce the defendant sold portions of them on or about March 28 and 29, 1946, to a canner located at San Francisco, Calif., in violation of Section 301 (c).

LABEL, IN PART: The peas were unlabeled and were invoiced as "Sample Grade Alaska Peas."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insect-infested peas.

DISPOSITION: July 28, 1947. A plea of nolo contendere having been entered, a fine of \$2,000 was imposed against Herbert W. Walcott. No fine was imposed against the partnership.

12949. Adulteration of canned field peas. U. S. v. Langford & Taylor. Plea of nolo contendere. Imposition of sentence suspended. Probation for 1 year. (F. D. C. No. 23298. Sample Nos. 1960-H, 1961-H.)

INFORMATION FILED: November 5, 1947, Northern District of Georgia, against Langford & Taylor, a partnership, Meansville, Ga.

ALLEGED SHIPMENT: On or about August 5 and 14, 1946, from the State of Georgia into the State of South Carolina.

LABEL, IN PART: "Alimosa Brand Georgia Green Field Peas."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a filthy substance by reason of the presence of larvæ.

DISPOSITION: November 5, 1947. A plea of nolo contendere having been entered, sentence was suspended and the members of the partnership were placed on probation for 1 year.

12950. Adulteration of canned field peas with snaps. U. S. v. The Ploeger-Abbott Co. Plea of nolo contendere. Fine, \$250. Two years' probation. (F. D. C. No. 23294. Sample Nos. 1552-H, 1797-H.)

INFORMATION FILED: August 1, 1947, Southern District of Georgia, against the Ploeger-Abbott Co., a partnership, Waynesboro, Ga.

ALLEGED SHIPMENT: On or about August 13 and 19, 1946, from the State of Georgia into the States of Florida and South Carolina.

LABEL, IN PART: "Golden Isle Tasty Foods Field Peas with Snaps."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a filthy substance by reason of the presence of larvæ.

DISPOSITION: March 8, 1948. A plea of nolo contendere having been entered, the defendant was fined \$250. Two members of the partnership were placed on 2 years' probation.

Nos. 12951 to 12955 report actions involving canned peas that purported to be a food for which a standard of quality has been prescribed by law, but the quality fell below the standard because of higher alcohol-insoluble solids than the maximum permitted by the standard, and the labels failed to bear, in the manner and form that the regulations specify, a statement that the product was below the standard.

12951. Misbranding of canned peas. U. S. v. Elkhart Lake Canning Co. Plea of guilty. Fine, \$750. (F. D. C. No. 23317. Sample Nos. 38597-H, 40973-H.)

INFORMATION FILED: August 12, 1947, Eastern District of Wisconsin, against the Elkhart Lake Canning Co., a corporation, Elkhart Lake, Wis.

ALLEGED SHIPMENT: On or about October 2 and November 1, 1946, from the State of Wisconsin into the States of Illinois and Missouri.

LABEL, IN PART: "Highland [or "Betty Brand"] Early June Peas."

NATURE OF CHARGE: Misbranding, Section 403 (h) (1), the product was below standard.

DISPOSITION: August 26, 1947. A plea of guilty having been entered, the defendant was fined \$750.

12952. Misbranding of canned peas. U. S. v. Stokely-Van Camp, Inc. Plea of nolo contendere. Fine, \$100 and costs. (F. D. C. No. 23238. Sample No. 49936-H.)

INFORMATION FILED: September 9, 1947, Northern District of Ohio, against Stokely-Van Camp, Inc., Norwalk, Ohio.

ALLEGED SHIPMENT: On or about September 6, 1946, from the State of Ohio into the State of Mississippi.

LABEL, IN PART: "Our Favorite Brand Early June Peas * * * Distributed By Fame Canning Company, Inc. * * * Indianapolis, Ind."

NATURE OF CHARGE: Misbranding, Section 403 (h) (1), the product was below standard.

DISPOSITION: September 18, 1947. A plea of nolo contendere having been entered, the defendant was fined \$100, together with costs.

12953. Misbranding of canned peas. U. S. v. 612 Cases * * *. (F. D. C. No. 24112. Sample No. 4277-K.)

LIBEL FILED: November 17, 1947, District of Massachusetts.

ALLEGED SHIPMENT: On or about July 9, 1947, by the Lineboro Canning Co., Inc., from Lineboro, Md.

PRODUCT: 612 cases, each containing 24 1-pound, 4-ounce cans, of peas at Worcester, Mass.

LABEL, IN PART: "Mason-Dixon Brand Early Peas June."

NATURE OF CHARGE: Misbranding, Section 403 (h) (1), the article was below standard.

DISPOSITION: December 22, 1947. The Lineboro Canning Co., Inc., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond for relabeling under the supervision of the Federal Security Agency.

12954. Misbranding of canned peas. U. S. v. 450 Cases * * *. (F. D. C. No. 24373. Sample No. 26241-K.)

LIBEL FILED: March 9, 1948, Eastern District of Missouri.

ALLEGED SHIPMENT: On or about January 30, 1947, by the Valders Canning Co., from Valders, Wis.

PRODUCT: 450 cases, each containing 24 unlabeled cans, of peas at St. Louis, Mo. The product was invoiced as standard peas, and no written agreement existed between the shipper and the consignee as to the labeling of the product.

LABEL, IN PART: (Cases) "24 No. 2 Cans Canned Peas Unlabeled."

NATURE OF CHARGE: Misbranding, Section 403 (e) (1), the article failed to bear a label containing the name and place of business of the manufacturer, packer, or distributor; Section 403 (e) (2), it failed to bear a label containing an accurate statement of the quantity of the contents; Section 403 (g) (2), the label of the article failed to bear the name of the article, as required by the definition and standard of identity for canned peas; and, Section 403 (h) (1), the quality of the article fell below the standard of quality for canned peas because of high alcohol-insoluble solids.

DISPOSITION: March 9, 1948. The Valders Canning Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond to be brought into compliance with the law and to be labeled "substandard," under the supervision of the Federal Security Agency.

12955. Misbranding of canned peas. U. S. v. 55 Cases * * *. (F. D. C. No. 24315. Sample No. 4632-K.)

LIBEL FILED: On or about February 4, 1948, District of Rhode Island.

ALLEGED SHIPMENT: On or about September 14, 1946, by the Salter Canning Co., Inc., from North Rose, N. Y.

PRODUCT: 55 cases, each containing 24 1-pound, 4-ounce cans, of peas at Providence, R. I.

LABEL, IN PART: "Bay Brand Sweet Peas Mixed Sizes."

NATURE OF CHARGE: Misbranding, Section 403 (h) (1), the product was below standard.

DISPOSITION: March 2, 1948. Default decree of condemnation. The product was ordered delivered to charitable institutions.

12956. Misbranding of canned black-eye peas. U. S. v. 48 Cases * * *. (F. D. C. No. 24437. Sample No. 659-K.)

LIBEL FILED: February 10, 1948, Middle District of Georgia.

ALLEGED SHIPMENT: On or about December 5, 1947, by the Northwestern Canning & Packing Co., from Seffner, Fla.

PRODUCT: 48 cases, each containing 24 1-pound cans, of black-eye peas at Quitman, Ga.

LABEL, IN PART: "Old Glory Black Eye Peas With Bacon Contents 1 Lb."

NATURE OF CHARGE: Misbranding, Section 403 (a), the label designation "Black Eye Peas With Bacon," appearing on the main panel of the label, was misleading as applied to the article, which was soaked, dry black-eye peas with bacon, and such misleading impression was not corrected by the inconspicuous statement on the side panel "Soaked Dry Black Eye Peas With Bacon"; and, Section 403 (e) (2), the article failed to bear a label containing an accurate statement of the quantity of the contents. (The article was short-weight.)

DISPOSITION: March 17, 1948. Default decree of condemnation. The product was ordered delivered to a Federal institution.

12957. Adulteration of pickles. U. S. v. 32 Barrels * * *. (F. D. C. No. 24122. Sample No. 8772-K.)

LIBEL FILED: November 24, 1947, Eastern District of New York.

ALLEGED SHIPMENT: On or about October 9, 1947, by the New England Pickle Co., from Rockville, Conn.

PRODUCT: 32 55-gallon barrels of pickles at Brooklyn, N. Y.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of decomposed pickles, and it was otherwise unfit for food by reason of the presence of soft and slimy pickles.

DISPOSITION: December 30, 1947. Default decree of condemnation and destruction.

12958. Misbranding of canned turnip greens. U. S. v. 200 Cases * * *. (F. D. C. No. 23204. Sample No. 55333-H.)

LIBEL FILED: June 24, 1947, Southern District of Florida.

ALLEGED SHIPMENT: On or about May 24, 1946, by the South Atlantic Canning Co., from Mt. Pleasant, S. C.

PRODUCT: 200 cases, each containing 24 1-pound, 2-ounce cans, of turnip greens at Jacksonville, Fla.

LABEL, IN PART: "I-Dine Brand * * * Turnip Greens."

NATURE OF CHARGE: Misbranding, Section 403 (g) (1), the product failed to conform to the definition and standard of identity for canned turnip greens, since it had not been processed by heat so as to prevent spoilage. (Examination showed that the product was in whole or in part decomposed.)

DISPOSITION: January 22, 1948. Default decree of condemnation. The product was ordered delivered to an institution, conditioned that the unfit portion be destroyed or used for animal feed.

TOMATOES AND TOMATO PRODUCTS*

12959. Adulteration of canned tomatoes and adulteration and misbranding of canned tomato paste and tomato puree. U. S. v. John Minervini. Plea of guilty. Fine, \$402. (F. D. C. No. 16573. Sample Nos. 93751-F, 93755-F, 93760-F, 93844-F.)

INFORMATION FILED: November 13, 1945, District of New Jersey, against John Minervini, Hoboken, N. J.

ALLEGED SHIPMENT: On or about November 28 and 30 and December 4 and 5, 1944, from the State of New Jersey into the State of New York.

LABEL, IN PART: "Minervini Brand * * * Tomato Paste [or "Italian Style Unpeeled Tomatoes With Added Tomato Juice," or "Tomato Puree"]."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the tomato paste and canned tomatoes consisted in whole or in part of decomposed substances by reason of the presence of decomposed tomato material, and the tomato puree consisted in whole or in part of a filthy substance by reason of the presence of insects and larvae.

Misbranding, Section 403 (g) (1), the tomato paste and tomato puree failed to conform to the definition and standard of identity, since the tomato paste contained less than 25 percent of salt-free tomato solids and the tomato puree contained less than 8.37 percent of salt-free tomato solids.

DISPOSITION: March 13, 1946. A plea of guilty having been entered, the defendant was fined \$402.

12960. Adulteration and misbranding of canned tomatoes. U. S. v. 1,999 Cases * * *. (F. D. C. No. 23946. Sample No. 18617-K.)

LIBEL FILED: November 18, 1947, Southern District of Ohio.

ALLEGED SHIPMENT: On or about September 10, 1947, by Albert W. Sisk & Son, from Preston, Md.

PRODUCT: 1,999 cases, each containing 24 1-pound, 3-ounce cans, of tomatoes at Cincinnati, Ohio.

LABEL, IN PART: "Pine Cone Brand Tomatoes."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance.

Misbranding, Section 403 (g) (1), the article failed to conform to the definition and standard of identity for canned tomatoes, which provides that canned tomatoes are sealed in a container and so processed by heat as to prevent spoilage. The article had not been processed by heat so as to prevent spoilage.

DISPOSITION: January 14, 1948. H. B. Wright & Son, claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond for segregation and destruction of the bad cans of tomatoes, under the supervision of the Food and Drug Administration.

12961. Adulteration and misbranding of canned tomatoes. U. S. v. 1,939 Cases * * *. (F. D. C. No. 24142. Sample No. 8-K.)

LIBEL FILED: On or about December 1, 1947, Eastern District of South Carolina.

*See also Nos. 12819, 12820.

ALLEGED SHIPMENT: On or about August 21, 1947, by the Belmont Canning Co., from Threeway, Va.

PRODUCT: 1,939 cases, each containing 24 1-pound, 3-ounce cans, of tomatoes at Charleston, S. C.

LABEL, IN PART: "Rich-West Brand Tomatoes."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

Misbranding, Section 403 (g) (1), the product failed to conform to the definition and standard of identity for canned tomatoes, since it had not been so processed by heat as to prevent spoilage.

DISPOSITION: March 5, 1948. The Belmont Canning Co., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond, conditioned that the unfit portion be segregated and destroyed under the supervision of the Food and Drug Administration.

12962. Misbranding of canned tomatoes. U. S. v. 238 Cases * * *. (F. D. C. No. 24342. Sample No. 22264-K.)

LIBEL FILED: February 9, 1948, Northern District of Florida.

ALLEGED SHIPMENT: On or about October 13, 1947, by the Watkins Produce Co., from Thomasville, Ga.

PRODUCT: 238 cases, each containing 24 1-pound, 3-ounce cans, of tomatoes at Pensacola, Fla. Examination showed that the product was decomposed.

LABEL, IN PART: "Rich-West Brand Tomatoes * * * Packed by Belmont Canning Co. Threeway, Va."

NATURE OF CHARGE: Misbranding, Section 403 (g) (1), the article failed to conform to the definition and standard of identity for canned tomatoes, since it had not been processed by heat so as to prevent spoilage.

DISPOSITION: April 7, 1948. Default decree of condemnation and destruction.

12963. Adulteration of canned tomatoes. U. S. v. 445 Cases * * *. (F. D. C. No. 24480. Sample No. 14691-K.)

LIBEL FILED: March 17, 1948, Western District of Michigan.

ALLEGED SHIPMENT: On or about October 30, 1947, by the Cooper Canning Co., from Elwood, Ind.

PRODUCT: 445 cases, each containing 24 1-pound, 3-ounce cans, of tomatoes at Benton Harbor, Mich.

LABEL, IN PART: "Defiance Tomatoes."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of fly eggs and maggots; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: April 29, 1948. Default decree of condemnation. The product was ordered delivered to a State institution, for use as animal feed.

12964. Misbranding of canned tomatoes. U. S. v. 1,798 Cases * * *. (F. D. C. No. 24448. Sample No. 14837-K.)

LIBEL FILED: March 1, 1948, Northern District of Illinois.

ALLEGED SHIPMENT: On or about January 9, 1948, by Roberts Bros., Inc., from Baltimore, Md.

PRODUCT: 1,798 cases, each containing 48 10-ounce cans, of tomatoes at Chicago, Ill.

LABEL, IN PART: "Roberts Big R Brand Tomatoes."

NATURE OF CHARGE: Misbranding, Section 403 (h) (1), the quality of the article fell below the standard of quality for canned tomatoes because of excessive tomato peel, and its label failed to bear a statement that it fell below such standard.

DISPOSITION: April 2, 1948. Messcher & Stock, Inc., Chicago, Ill. claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond for the purpose of

segregating the product into lots by code and relabeling the lots found to be below standard, under the supervision of the Federal Security Agency.

12965. Misbranding of canned tomatoes. U. S. v. 175 Cases * * * (and 1 other seizure action). (F. D. C. Nos. 21908, 23820. Sample Nos. 49955-H, 22002-K.)

LIBELS FILED: December 2, 1946, and November 8, 1947, Northern District of Alabama and Southern District of Mississippi.

ALLEGED SHIPMENT: On or about August 8, 1946, and August 8, 1947, by the Humboldt Canning Co., from Humboldt, Tenn.

PRODUCT: Canned tomatoes. 175 cases at Sheffield, Ala., and 1,347 cases at Meridian, Miss. Each case contained 24 1-pound, 3-ounce cans.

LABEL, IN PART: "Davy Crockett Brand Hand Packed Tomatoes."

NATURE OF CHARGE: Misbranding, Section 403 (h) (1), the article fell below the standard of quality for canned tomatoes because of excessive peel and blemishes, and its label failed to bear a statement that it fell below such standard.

DISPOSITION: December 18, 1946, and December 18, 1947. The Humboldt Canning Co., claimant, having consented to the entry of a decree, judgments of condemnation were entered and the product was ordered released under bond for relabeling under the supervision of the Federal Security Agency.

12966. Misbranding of canned tomatoes. U. S. v. 1,498 Cases * * *. (F. D. C. No. 23699. Sample No. 83169-H.)

LIBEL FILED: September 15, 1947, Western District of Kentucky.

ALLEGED SHIPMENT: On or about July 31, 1947, by the De Kalb Canning Co., from De Kalb, Tex.

PRODUCT: 1,498 cases, each containing 24 1-pound, 3-ounce cans, of tomatoes at Louisville, Ky.

LABEL, IN PART: "Dek-Pak Brand Tomatoes."

NATURE OF CHARGE: Misbranding, Section 403 (h) (1), the product fell below the standard of quality for canned tomatoes, and it was not labeled to show that it was substandard. It failed to meet the test for color, and it contained excessive peel.

DISPOSITION: March 2, 1948. The De Kalb Canning Co., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be relabeled under the supervision of the Food and Drug Administration.

12967. Misbranding of canned tomatoes. U. S. v. 630 Cases * * *. (F. D. C. No. 24369. Sample No. 26238-K.)

LIBEL FILED: March 5, 1948, Eastern District of Missouri.

ALLEGED SHIPMENT: On or about December 19, 1947, by Eagle Pass Food Products, Inc., from Crystal City, Tex.

PRODUCT: 630 cases, each containing 24 unlabeled cans, of tomatoes at St. Louis, Mo.

LABEL, IN PART: (Cases) "24 No. 2 cans Tomatoes."

NATURE OF CHARGE: Misbranding, Section 403 (e) (1), the article failed to bear a label containing the name and place of business of the manufacturer, packer, or distributor; Section 403 (e) (2), it failed to bear a label containing an accurate statement of the quantity of the contents; Section 403 (g) (2), it purported to be, and was represented as, canned tomatoes, a food for which a definition and standard of identity has been prescribed by regulations, and its label failed to bear the name of the food specified in such definition and standard; and, Section 403 (h) (1), the quality of the article fell below the standard of quality for canned tomatoes because of excessive peel, and its label failed to bear the substandard legend.

DISPOSITION: April 1, 1948. Eagle Pass Food Products, Inc., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond to be brought into compliance with the law, under the supervision of the Federal Security Agency.

12968. Misbranding of canned tomatoes. U. S. v. 479 Cases * * *. (F. D. C. No. 23671. Sample No. 76713-H.)

LIBEL FILED: September 4, 1947, Southern District of Alabama.

ALLEGED SHIPMENT: On or about June 28, 1947, by the Rio Hondo Canning Co., from Rio Hondo, Tex.

PRODUCT: 479 cases, each containing 24 1-pound, 3-ounce cans, of tomatoes at Mobile, Ala.

LABEL, IN PART: "Cream of Texas Tomatoes * * * Packed by Rio-Tex Products Co. Weslaco, Tex."

NATURE OF CHARGE: Misbranding, Section 403 (h) (1), the article fell below the standard of quality prescribed for canned tomatoes, since it failed to meet the requirements for strength and redness of color and since it contained excessive tomato peel, and its label failed to bear a statement that it fell below such standard.

DISPOSITION: October 10, 1947. C. L. Skaggs, trading as the Rio-Tex Products Co., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond for relabeling under the supervision of the Food and Drug Administration.

12969. Misbranding of canned tomatoes. U. S. v. 299 Cases * * *. (F. D. C. No. 23846. Sample No. 20678-H.)

LIBEL FILED: October 14, 1947, District of Nebraska.

ALLEGED SHIPMENT: On or about July 24, 1947, by the Cherokee County Canning Co., from Rusk, Tex.

PRODUCT: 299 cases, each containing 24 1-pound, 3-ounce cans, of tomatoes at Norfolk, Nebr.

LABEL, IN PART: "CCC Brand Tomatoes."

NATURE OF CHARGE: Misbranding, Section 403 (h) (1), the article fell below the standard of quality for canned tomatoes, since the drained weight was less than 50 percent of the weight of water required to fill the container and since the color of the tomatoes was not of the strength and redness required by the standard, and it was not labeled as substandard, as required by the regulations.

DISPOSITION: March 12, 1948. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed. On March 25, 1945, an amended decree was entered ordering that the product be delivered for the use of charitable institutions.

12970. Misbranding of canned tomatoes. U. S. v. 260 Cases, etc. (F. D. C. No. 24120. Sample Nos. 20234-K to 20236-K, incl.)

LIBEL FILED: November 25, 1947, District of Nebraska.

ALLEGED SHIPMENT: On or about August 9 and 20, 1947, by the Allen Canning Company, from Siloam Springs, Ark.

PRODUCT: Tomatoes. 1,343 cases, each containing 24 1-pound, 3-ounce cans, and 574 cases, each containing 6 6-pound, 6-ounce cans, at Omaha, Nebr.

LABEL, IN PART: "King of Ozarks Brand Standard Grade Tomatoes * * * Packed By Robinson Canning Co., Siloam Springs," or "Allen Hi-Grade Brand Tomatoes."

NATURE OF CHARGE: Misbranding, Section 403 (h) (1), the product fell below the standard of quality for canned tomatoes, and the labels failed to bear a statement that the product was substandard. In a portion of the product (260 cases), the drained weight and the strength and redness of color of the tomatoes did not conform to the regulations; in the remainder, the strength and redness of color did not conform to the regulations, and the product contained peel in excess of the amount permitted by the regulations.

Further misbranding, Section 403 (a), the statement "Standard Grade" was false and misleading, since the article was of substandard quality.

DISPOSITION: February 6, 1948. D. E. Allen, Delbert Allen, Jr., and Irma Faye Allen, trading as the Allen Canning Co. and the Robinson Canning Co., claimants, having admitted the material allegations of the libel, and having consented to the entry of a decree, judgment of condemnation was entered and the product

was ordered released under bond for relabeling under the supervision of the Federal Security Agency.

12971. Misbranding of canned tomatoes. U. S. v. 144 Cases * * *. (F. D. C. No. 23665. Sample No. 83194-H.)

LIBEL FILED: August 29, 1947, Western District of Kentucky.

ALLEGED SHIPMENT: On or about June 23, 1947, by the Elsa Canning Co., from Elsa, Tex.

PRODUCT: 144 cases, each containing 24 1-pound, 3-ounce cans, of tomatoes at Louisville, Ky.

LABEL, IN PART: "Ro-May Brand Tomatoes."

NATURE OF CHARGE: Misbranding, Section 403 (h) (1), the article fell below the standard of quality for canned tomatoes because the drained weight of the contents of the container of the article was less than 50 percent of the weight of water required to fill the container, and its label failed to bear a statement that it fell below such standard.

DISPOSITION: April 24, 1948. Default decree of condemnation and destruction.

12972. Adulteration of tomato catsup. U. S. v. 1,974 Cases * * *. (F. D. C. No. 22190. Sample No. 76143-H.)

LIBEL FILED: January 22, 1947, Southern District of New York.

ALLEGED SHIPMENT: On or about October 8, 1946, by the Sardik Food Products Corporation, from Shirley, Ind.

PRODUCT: 1,974 cases, each containing 6 unlabeled No. 10 cans, of tomato catsup at New York, N. Y.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of decomposed tomato material.

DISPOSITION: December 15, 1947. The sole intervener having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered destroyed.

12973. Adulteration of tomato catsup. U. S. v. 99 Cases * * * (and 1 other seizure action). (F. D. C. Nos. 23995, 24003. Sample Nos. 26091-K, 26095-K.)

LIBELS FILED: December 1 and 3, 1947, Eastern District of Missouri.

ALLEGED SHIPMENT: On or about October 24, 1947, by the Naas Corporation of Indiana, from Portland, Ind.

PRODUCT: 143 cases, each containing 24 14-ounce bottles, of tomato catsup at St. Louis, Mo.

LABEL, IN PART: "Naas Supreme Tomato Catsup," or "Happy Home Brand Tomato Catsup * * * Wulffing Grocer Co., Distributors, St. Louis, Mo."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of decomposed tomato material.

DISPOSITION: December 24, 1947, and January 2, 1948. Default decrees of condemnation and destruction.

12974. Adulteration of tomato catsup. U. S. v. 128 Cases * * *. (F. D. C. No. 24471. Sample No. 15129-K.)

LIBEL FILED: March 9, 1948, Northern District of Illinois.

ALLEGED SHIPMENT: On or about January 24, 1948, by the Montpelier Food Products Corporation, of Montpelier, Ind., from Swedesboro, N. J.

PRODUCT: 128 cases, each containing 6 6-pound, 12-ounce cans, of tomato catsup at Chicago, Ill.

LABEL, IN PART: "Hurff Tomato Catsup * * * Packed by Edgar F. Hurff Company Swedesboro, New Jersey."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of decomposed tomato material.

DISPOSITION: May 3, 1948. Default decree of condemnation and destruction.

12975. Adulteration of tomato catsup. U. S. v. 89 Cases * * *. (F. D. C. No. 23998. Sample No. 26094-K.)

LIBEL FILED: December 1, 1947, Eastern District of Missouri.

ALLEGED SHIPMENT: On or about September 16, 1947, by the Montpelier Food Products Corporation, from Montpelier, Ind.

PRODUCT: 89 cases, each containing 24 14-ounce bottles, of tomato catsup at St. Louis, Mo.

LABEL, IN PART: "Honor Brand * * * Tomato Catsup Packed for Honorco, Inc., Chicago, Ill."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of decomposed tomato material.

DISPOSITION: February 17, 1948. Default decree of condemnation and destruction.

12976. Adulteration of canned tomato puree. U. S. v. D. E. Foote & Co., Inc. Plea of guilty. Fine, \$450 and costs. (F. D. C. No. 22058. Sample Nos. 41978-H, 43124-H, 54745-H to 54747-H, incl., 64828-H, 64847-H, 70553-H, 70554-H, 70556-H, 70684-H.)

INFORMATION FILED: March 19, 1948, District of Maryland, against D. E. Foote & Co., Inc., Baltimore, Md.

ALLEGED SHIPMENT: Between the approximate dates of August 23 and October 25, 1946, from the State of Maryland into the States of Virginia, Georgia, New York, and California.

LABEL, IN PART: "Family Brand Tomato Puree."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a decomposed substance by reason of the presence of decomposed tomato material.

DISPOSITION: March 19, 1948. A plea of guilty having been entered on behalf of the defendant, a fine of \$450, plus costs, was imposed.

12977. Adulteration of tomato puree. U. S. v. 232 Cases * * * (and 2 other seizure actions). (F. D. C. Nos. 23428, 23749, 23763. Sample Nos. 76664-H, 76718-H, 76720-H, 91141-H.)

LIBELS FILED: August 25 and September 16, 1947, Eastern and Western Districts of Louisiana and Eastern District of Missouri.

ALLEGED SHIPMENT: Between the approximate dates of June 16 and July 22, 1947, by Quality Products, Inc., from La Feria, Tex.

PRODUCT: Tomato puree. 232 cases, each containing 6 6-pound, 8-ounce cans, at New Orleans, and 395 cases, each containing 100 4¾-ounce cans, at Shreveport, La., and 200 cases, each containing 100 4¾-ounce cans, at St. Louis, Mo.

LABEL, IN PART: "Curtis Tomato Puree."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of maggots and fly eggs.

DISPOSITION: October 10 and 23 and December 4, 1947. Default decrees of condemnation and destruction.

12978. Adulteration of tomato puree. U. S. v. 50 Cases * * *. (F. D. C. No. 24428. Sample No. 18663-K.)

LIBEL FILED: February 9, 1948, Western District of Kentucky.

ALLEGED SHIPMENT: On or about October 30, 1947, by Delmonico Foods, Inc., from Shelbyville, Ind.

PRODUCT: 50 cases, each containing 6 No. 10 cans, of tomato puree at Louisville, Ky.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of decomposed tomato material.

DISPOSITION: April 16, 1948. Default decree of condemnation and destruction.

12979. Adulteration and misbranding of tomato puree. U. S. v. 98 Cases * * *.
(F. D. C. No. 23423. Sample No. 76715-H.)

LIBEL FILED: On or about August 18, 1947, Southern District of Alabama.

ALLEGED SHIPMENT: On or about June 28, 1947, by the Rio Hondo Canning Co., from Rio Hondo, Tex.

PRODUCT: 98 cases, each containing 6 6-pound, 6-ounce cans, of tomato puree at Mobile, Ala.

LABEL, IN PART: "Santa Rosa Brand Tomato Puree Packed By Santa Rosa Canning Co. Santa Rosa, Texas."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), a product containing less than 8.37 percent of salt-free tomato solids had been substituted for tomato puree.

Misbranding, Section 403 (g) (1), the article failed to conform to the definition and standard of identity for tomato puree. The standard provides that tomato puree contain not less than 8.37 percent of salt-free tomato solids.

DISPOSITION: December 4, 1947. Default decree of condemnation. The product was ordered delivered to a charitable institution.

12980. Misbranding of tomato puree. U. S. v. 34 Cases * * *. (F. D. C. No. 24291. Sample No. 8023-K.)

LIBEL FILED: January 2, 1948, District of Connecticut.

ALLEGED SHIPMENT: On or about October 17, 1947, by the Orleans County Canning Co., from Albion, N. Y.

PRODUCT: 34 cases, each containing 6 6-pound, 12-ounce cans, of tomato puree at Danbury, Conn.

LABEL, IN PART: "LeFrois Brand Tomato Puree * * * Packed by J. B. LeFrois & Sons Rochester, N. Y. Contents 6 Lbs. 12 Ozs."

NATURE OF CHARGE: Misbranding, Section 403 (e) (2), the product failed to bear a label containing an accurate statement of the quantity of the contents. (The product was short-weight.)

DISPOSITION: March 15, 1948. J. B. LeFrois & Sons, claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond to be relabeled under the supervision of the Food and Drug Administration.

12981. Adulteration of tomato sauce and tomato puree. U. S. v. 428 Cases of Tomato Sauce (and 6 other seizure actions against tomato sauce and one lot of tomato puree). (F. D. C. Nos. 20593, 20614, 20725, 20846 to 20849, incl. Sample Nos. 23700-H, 49611-H, 49612-H, 49614-H, 49616-H, 49823-H, 65354-H, 65355-H.)

LIBELS FILED: Between the dates of July 29 and September 7, 1946, Eastern and Western Districts of Louisiana and Eastern District of Pennsylvania.

ALLEGED SHIPMENT: Between the approximate dates of June 5 and 14, 1946, by the Montgomery Canning Co., from Mission, Tex.

PRODUCT: Tomato sauce. 428 cases at New Orleans, 149 cases at Shreveport, 361 cases at Monroe, 276 cases at West Monroe, and 96 cases at Minden, La.; and 22 cases at Philadelphia, Pa.

Tomato puree. 13 cases at Philadelphia, Pa.

Each case of tomato sauce contained 72 7¾-ounce cans, and each case of tomato puree contained 6 6-pound, 8-ounce cans. Examination of both articles showed that they contained fly eggs and maggots.

LABEL, IN PART: "Montgomery Spanish Style Tomato Sauce," or "Bohannon Tomato Puree."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the articles consisted in whole or in part of filthy substances; and, Section 402 (a) (4), they had been prepared under insanitary conditions whereby they may have become contaminated with filth.

DISPOSITION: Between the dates of September 10 and December 13, 1946. No claimant having appeared for any of the lots, judgments of condemnation were entered and the lots at Monroe and West Monroe were ordered delivered to public institutions, for use as animal feed. The remaining lots were ordered destroyed.

12982. Adulteration of tomato sauce. U. S. v. 769 Cases, etc. (F. D. C. No. 19676. Sample No. 46640-H.)

LIBEL FILED: April 26, 1946, District of Puerto Rico.

ALLEGED SHIPMENT: On or about December 18, 1945, by Libby, McNeill & Libby, Inc., from San Francisco, Calif.

PRODUCT: Tomato sauce. 769 cases, each containing 72 8-ounce cans, and 72 8-ounce cans, in various lots, at Arecibo, Bayamon, Caguas, Guayama, Humacao, Rio Piedras, Vega Baja, and Yabucoa, Puerto Rico.

LABEL, IN PART: "Libby's Tomato Sauce."

NATURE OF CHARGE: Adulteration, Section 402 (a) (2), the product consisted in whole or in part of a decomposed substance by reason of the presence of decomposed tomato material.

DISPOSITION: On May 31, 1946, Libby, McNeill & Libby, Inc., appeared and filed a claim and answer. The claimant filed also interrogatories seeking information, among other things, as to the number of samples examined, identification of the samples with the shipment charged, and full details as to the method of analyses and the results.

On June 10, 1946, the Government filed its objections to the interrogatories and a motion to vacate. Thereupon, the matter was submitted to the court on briefs, and on August 9, 1946, the court entered the following order: "The objection of the libellant to the interrogatories propounded by the claimant is sustained, on the ground that the scope of Admiralty Rule 31 is narrowed, in these proceedings, and as to these particular interrogatories by the provisions of Section 304 (b) and (3) of the Federal Food, Drug, and Cosmetic Act."

Thereafter, the answer of the claimant was withdrawn. On October 15, 1947, a decree of condemnation and destruction was entered. On October 21, 1947, however, the claimant having petitioned for the delivery of the product, the decree was amended to permit release of the product to the claimant under bond for the purpose of separating the good from the bad.

On January 28, 1948, a new decree for the disposition of the goods was entered, the terms of which provided for the destruction of the product, with the exception of the cans in one code, which were ordered delivered to the claimant since they had been found by the Food and Drug Administration to be satisfactory.

NUTS AND NUT PRODUCTS

12983. Adulteration of mixed nuts. U. S. v. 33 Boxes * * *. (F. D. C. No. 22610. Sample No. 53957-H.)

LIBEL FILED: March 10, 1947, Northern District of Ohio.

ALLEGED SHIPMENT: On or about November 4, 1946, by the William A. Camp Co., Inc., from New York, N. Y.

PRODUCT: 33 25-pound boxes of mixed nuts at Cleveland, Ohio.

LABEL, IN PART: "Universal Brand Mixed Nuts."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of moldy, rancid, and decomposed brazil nuts.

DISPOSITION: July 24, 1947. The William A. Camp Co., Inc., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be brought into compliance with the law, by removal of the brazil nuts under the supervision of the Food and Drug Administration.

12984. Adulteration of peanuts. U. S. v. 6 Bags * * * (and 1 other seizure action). (F. D. C. Nos. 24470, 24492. Sample Nos. 6081-K, 6649-K.)

LIBELS FILED: March 3 and 18, 1948, Western District of Pennsylvania.

ALLEGED SHIPMENT: On or about January 22 and 24, 1948, by the Columbian Peanut Co., from Norfolk, Va., and Fort Gaines, Ga.

PRODUCT: 6 100-pound bags and 23 120-pound bags of shelled peanuts at Pittsburgh, Pa.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), (23-bag lot) the article consisted in whole or in part of a decomposed substance by reason of the presence of mold and rancid peanuts, and of a filthy substance by reason of

the presence of dirty peanuts; (6 bag lot) the article consisted in whole or in part of a filthy substance by reason of the presence of rodent pellets and rodent damaged peanuts.

Further adulteration, Section 402 (a) (4), (23-bag lot) the article had been held under insanitary conditions (in a mice-infested railroad car) whereby it may have become contaminated with filth.

DISPOSITION: March 31 and April 9, 1948. Default decrees of condemnation and destruction.

12985. Misbranding of peanut butter, potato chips, and salad dressing. U. S. v. Gibson Food Company. Plea of guilty. Fine, \$150. (F. D. C. No. 23289. Sample Nos. 40054-H, 40056-H to 40058-H, incl.)

INFORMATION FILED: July 16, 1947, Western District of Missouri, against the Gibson Food Co., a partnership, Springfield, Mo.

ALLEGED SHIPMENT: On or about December 10, 1946, and January 30, 1947, from the State of Missouri into the State of Kansas.

LABEL, IN PART: (Jars) "Gibson's Peanut Butter Net Wt. 32 Oz. [or "16 Oz."]; "Gibson's Salad Dressing One Pint"; or (Bags) "Gibson's Potato Chips Net Weight 1 $\frac{3}{4}$ Ozs."

NATURE OF CHARGE: Misbranding, Section 403 (e) (2), the products failed to bear labels containing an accurate statement of the quantity of the contents, since the jars and bags contained less than the amount declared.

DISPOSITION: September 23, 1947. A plea of guilty having been entered, the defendant was fined \$150.

12986. Adulteration of peanut butter. U. S. v. Peanut Corporation of America (Peanut Products Co.), and Jack Levensky. Each defendant fined \$50 and costs. (F. D. C. No. 23611. Sample No. 99590-H.)

INFORMATION FILED: November 17, 1947, Southern District of Iowa, against the Peanut Corporation of America, trading as the Peanut Products Co., at Des Moines, Iowa, and Jack Levensky, vice-president and general manager.

ALLEGED SHIPMENT: On or about June 3, 1947, from the State of Iowa into the State of Missouri.

LABEL, IN PART: "Lunch-on Peanut Butter."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a filthy substance by reason of the presence of an insect, insect fragments, rodent hair fragments, and rodent excreta fragments; and, Section 402 (a) (4), it had been prepared and packed under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: April 23, 1948. A plea of guilty having been entered, the defendants were each fined \$50, plus costs.

12987. Adulteration and misbranding of peanut butter. U. S. v. 55 Cases * * *. (F. D. C. No. 23445. Sample No. 86770-H.)

LIBEL FILED: September 9, 1947, Eastern District of Illinois.

ALLEGED SHIPMENT: On or about July 12, 1947, by the Aster Nut Products Co., from Evansville, Ind.

PRODUCT: 55 cases, each containing 24 jars, of peanut butter at Du Quoin, Ill.

LABEL, IN PART: "Twelve Ounces Net Blue Bell Brand Peanut Butter."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insect fragments; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

Misbranding, Section 403 (e) (2), the article failed to bear a label containing an accurate statement of the quantity of the contents. (The article was short-weight.)

DISPOSITION: May 3, 1948. Default decree of condemnation and destruction.

12988. Adulteration of walnut meats. U. S. v. 64 Cartons, etc. (F. D. C. Nos. 24417, 24418. Sample Nos. 24139-K, 24325-K.)

LIBEL FILED: January 20, 1948, District of Minnesota.

ALLEGED SHIPMENT: On or about December 8, 1947, by the Whittier Walnut Packing Co., from El Monte, Calif.

PRODUCT: 169 25-pound cartons of walnut meats at Minneapolis, Minn.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insects, insect fragments, and rodent hair fragments; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: April 9, 1948. The Whittier Walnut Packing Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond, conditioned that it be brought into compliance with the law, under the supervision of the Federal Security Agency.

POULTRY

12989. Adulteration of poultry. U. S. v. 1 Drum * * *. (F. D. C. No. 24463. Sample No. 22460-K.)

LIBEL FILED: March 1, 1948, Northern District of Alabama.

ALLEGED SHIPMENT: On or about February 13, 1948, by the Smith Poultry Co., Inc., Canton, Ga.

PRODUCT: 1 drum containing 34 birds weighing approximately 51 pounds at Birmingham, Ala.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article was unfit for food by reason of bruises and mutilations; and, Section 402 (a) (5), it was in whole or in part the product of a diseased animal.

DISPOSITION: April 12, 1948. Default decree of condemnation and destruction.

12990. Adulteration of dressed turkeys. U. S. v. 200 Barrels * * *. (F. D. C. No. 21398. Sample No. 67116-H.)

LIBEL FILED: On or about November 8, 1946, District of Kansas.

ALLEGED SHIPMENT: On or about August 12, 1946, by the Holbrook Turkey Growers Coop. Association, from Cheraw, Colo.

PRODUCT: 200 barrels, weighing 32,600 pounds gross, of dressed turkeys at Topeka, Kans.

NATURE OF CHARGE: Adulteration, Section 402 (a) (5), the article was in whole or in part the product of a diseased animal.

DISPOSITION: November 18, 1947. Pursuant to stipulation by the parties, the court entered an order providing that 39 head of the tom turkeys in barrels marked "B" Grade were to be totally destroyed; that 664 hen turkeys in barrels marked class "B" were to be processed and canned under the supervision of a veterinary of the United States Department of Agriculture, to eliminate all diseased and unfit birds; and that the remaining turkeys, about 1,900 head, were to be released to the claimant unconditionally.

SPICES, FLAVORS, AND SEASONING MATERIALS

12991. Adulteration of imitation pepper and sausage binder and adulteration and misbranding of meat extender. U. S. v. Basic Food Materials, Inc., and Ray F. Beerend. Pleas of guilty. Each defendant fined \$2,000 and costs; fine of corporate defendant suspended. (F. D. C. No. 20970. Sample Nos. 2784-H, 2798-H, 16123-H, 21062-H, 28778-H, 36376-H.)

INFORMATION FILED: December 10, 1946, Northern District of Ohio, against Basic Food Materials, Inc., Cleveland, Ohio, and Ray F. Beerend, president.

ALLEGED SHIPMENT: Between the approximate dates of July 17 and September 11, 1945, from the State of Ohio into the States of Maryland, Virginia, Washington, Missouri, and Michigan.

LABEL, IN PART: "Chef's Delite Imitation Pepper," "Basic Food Materials Whe-Co Binder," or "Basic Food Materials Chef's Delite Meat Extender."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the articles consisted in part of filthy substances by reason of the presence (in the imitation pepper) of insects, larvae, insect fragments, mites, rodent hair, and hair resembling rodent hair; (in the sausage binder) of live infestation and insect filth in the form of live sawtooth grain beetles, live larvae, insect larvae or heads, and insect or worm fragments; and (in the meat extender) of larvae, beetle and larvae heads, capsules and cast skins, insect fragments, and hair resembling

rodent hair. Further adulteration, Section 402 (a) (4), the products had been prepared and packed under insanitary conditions whereby they may have become contaminated with filth; and, Section 402 (b) (1), valuable constituents, whole wheat cereal and dextrose, had been omitted from one lot of the meat extender.

Misbranding (meat extender), Section 403 (a), the label statements, "Meat Extender" and "for using in Hamburgers, Meat Loaves, etc.," and the statements in the circular accompanying one shipment, "For Delicious and Wholesome Hamburger Patties, Meat Loaves, etc., use * * * Meat Extender (Ground Meat Mix)" and "Meat Extender (Ground Meat Mix)," were false and misleading. These statements represented and suggested that the article was a ground meat product and could be used to extend or increase the quantity of meat when used in hamburgers, meat loaves, etc. The article was not a ground meat product, but consisted principally of soy flour and contained no meat. Further misbranding, Section 403 (i) (2), one shipment of the article failed to bear a label containing the common or usual name of each of its ingredients.

DISPOSITION: March 25, 1947. Pleas of guilty having been entered, the corporation and the individual defendant were each fined \$2,000 and costs. The fine imposed upon the corporation was suspended.

12992. Adulteration and misbranding of black pepper. U. S. v. Ted A. Ginsberg (The Food Center). Plea of guilty. Fine, \$100 and costs. (F. D. C. No. 23312. Sample No. 40392-H.)

INFORMATION FILED: September 3, 1947, Southern District of Iowa, against Ted A. Ginsberg, an individual, trading as The Food Center, Keokuk, Iowa.

ALLEGED SHIPMENT: On or about August 11, 1946, from the State of Iowa into the State of Missouri.

LABEL, IN PART: (Card) "Damore Brand Pure Black Pepper 10¢ Packed by Damore Spice Company Nevada 3502 Chicago 24, Illinois."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), starchy material had been substituted in part for black pepper; and, Section 402 (b) (4), starchy material had been added to the product so as to increase its bulk or weight and reduce its quality and strength.

Misbranding, Section 403 (a), the label statement "Pure Black Pepper" was false and misleading.

DISPOSITION: November 11, 1947. A plea of guilty having been entered, the defendant was fined \$100 and costs.

12993. Adulteration of black pepper. U. S. v. 74 Cans, etc. (F. D. C. No. 23968. Sample Nos. 36318-K, 36508-K.)

LIBEL FILED: November 24, 1947, Western District of Washington.

ALLEGED SHIPMENT: On or about September 16, 1947, by R. C. Pauli & Sons, from San Francisco, Calif.

PRODUCT: 74 1-pound cans, 22 2½-pound cans, and 9 5-pound tubes, of black pepper at Everett, Wash.

LABEL, IN PART: "Bargreen's Pure Ground Black Pepper."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insect fragments and rodent hairs.

DISPOSITION: March 18, 1948. Default decree of condemnation and destruction.

12994. Adulteration of chili pepper. U. S. v. 15 Barrels * * *. (F. D. C. No. 24698. Sample No. 31326-K.)

LIBEL FILED: April 1, 1948, Southern District of New York.

ALLEGED SHIPMENT: On or about February 5, 1948, by Gonzales & Blanco, from Los Angeles, Calif.

PRODUCT: 15 barrels, each containing 230 pounds, of chili pepper at New York, N. Y.

LABEL, IN PART: "A A California Chili Pepper."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of moldy chili pepper.

DISPOSITION: May 5, 1948. Default decree of condemnation and destruction.

VITAMIN, MINERAL, AND OTHER PRODUCTS OF SPECIAL DIETARY SIGNIFICANCE*

12995. Alleged adulteration and misbranding of vitamin tablets. U. S. v. Michael Walsh (Kelp Laboratories). Defendant's motion granted to dismiss on grounds that guaranty provision of the law applies only to a guaranty that is false relative to an interstate shipment. On appeal to United States Supreme Court, judgment of District Court overruled and case remanded. Defendant's motion granted to dismiss on other grounds. (F. D. C. No. 17829. Sample No. 31202-H.)

INFORMATION FILED: April 25, 1946, Southern District of California, against Michael Walsh, trading as Kelp Laboratories, San Diego, California. The defendant was charged with giving a false guaranty, the facts of which appear in the opinion.

LABEL, IN PART: "Harrison Formula B * * * Ingredients: Vitamin B₁, Riboflavin (Vitamin G), Niacinamide, Brewers Yeast, Whey * * * Six Tablets daily furnish * * * 10 mg. Niacinamide."

NATURE OF CHARGE: Adulteration, Section 402 (b) (1), a valuable constituent, niacinamide, had been omitted, since six tablets of the food would provide less than 10 milligrams of niacinamide.

Misbranding, Section 403 (a), the label statement "Six Tablets * * * furnish * * * 10 mg. Niacinamide" was false and misleading.

DISPOSITION: On June 14, 1946, the defendant filed a motion to dismiss on the grounds that the guaranty provision of the Federal Food, Drug, and Cosmetic Act applies only to a guaranty that is false relative to an interstate shipment. The motion was granted by the District Court on July 11, 1946.

On October 17, 1946, a notice of appeal to the Supreme Court of the United States was filed, and on May 19, 1947, the following opinion was handed down, reversing the judgment of the District Court:

JUSTICE MURPHY: "This appeal brings before us § 301 (h) of the Federal Food, Drug, and Cosmetic Act of 1938, 52 Stat. 1040, 1042, 21 U. S. C. § 331 (h), which prohibits the giving of a false guaranty that any food, drug, device or cosmetic is not adulterated or misbranded within the meaning of the Act.

"Appellee does business in San Diego, California, under the name of Kelp Laboratories. An information has been filed, charging appellee with having given a false guaranty in violation of § 301 (h). The following facts have been alleged: In February, 1943, appellee gave a continuing guaranty to Richard Harrison Products, of Hollywood, California, stating that no products thereafter shipped to the latter would be adulterated or misbranded within the meaning of the Act. On February 24, 1945, while the guaranty was in full force and effect, appellee consigned to Richard Harrison Products, at Hollywood, a shipment of vitamin products which were allegedly adulterated and misbranded—thereby making the guaranty false in respect of that shipment. Prior and subsequent to the date of the shipment, Richard Harrison Products was engaged in the business of introducing and delivering for introduction into interstate commerce quantities of the vitamin products supplied by appellee.

"Appellee moved to dismiss the information on the ground that it did not state an offense. The argument was that § 301 (h) applies only to a guaranty that is false relative to an interstate shipment, whereas the alleged shipment here was to a consignee within California, the state of origin, and there was no allegation that the consignee purchased the order for someone outside California or that it intended to sell the products in its interstate rather than its intrastate business. The District Court gave an oral opinion sustaining appellee's contention and granting the motion to dismiss. The case is here on direct appeal by the United States.

"The Federal Food, Drug, and Cosmetic Act rests upon the constitutional power resident in Congress to regulate interstate commerce. To the end that the public health and safety might be advanced, it seeks to keep interstate channels free from deleterious, adulterated and misbranded articles of the specified types. *United States v. Dotterweich*, 320 U. S. 277, 280. It is in that interstate setting that the various sections of the Act must be viewed.

"But § 301 (h), with which we are concerned, does not speak specifically in interstate terms. It prohibits the 'giving of a guaranty or undertaking re-

*See also No. 12862.

ferred to in section 303 (c) (2), which guaranty or undertaking is false,' the only exception being as to a false guaranty given by a person who, in turn, relied upon a similar guaranty given by the person from whom he received in good faith the adulterated or misbranded article.¹ Nothing on the face of the section limits its application to guaranties relating to articles introduced or delivered for introduction into interstate commerce. From all that appears, its proscription plainly extends to the giving of any false statutory guaranty, without regard to the interstate or intrastate character of the shipment in question, to those who are engaged in the business of making interstate shipments.

"Nor do we find any interstate limitation of the type which appellee proposes in the reference made in § 301 (h) to § 303 (c) (2).² That reference is made simply to define the type of guaranty or undertaking the falsification of which is prohibited by § 301 (h). Instead of spelling out the matter, § 301 (h) adopts the reference in § 303 (c) (2) to 'a guaranty or undertaking signed by, and containing the name and address of, the person residing in the United States from whom he received in good faith the article, to the effect . . . that such article is not adulterated or misbranded, within the meaning of this Act, designating this Act.' The fact that § 303 (c) (2) relieves a holder of such a guaranty from the criminal penalties provided by § 303 (a) for violating § 301 (a) does not carry over the interstate limitation of § 301 (a) to § 301 (h). Section 301 (a) prohibits the introduction or delivery for introduction into interstate commerce of illicit articles,³ and § 303 (c) (2) relieves one from the liabilities of such introduction if one has a guaranty or undertaking as therein described. Section 301 (h) has adopted that description for the entirely different purpose of informing persons what kind of a guaranty or undertaking may not be given falsely. In other words, § 301 (a) is directed to illegal interstate shipments, while § 301 (h) is directed to the giving of false guaranties. Guaranties as described in § 303 (c) (2) may be used by interstate dealers in connection with either interstate or intrastate shipments and those guaranties that are false are outlawed by § 301 (h).

"It is true, of course, that the guaranty referred to in § 303 (c) (2) is one given for the purpose of protecting the dealer 'in case of an alleged violation of section 301 (a),' thereby relieving him of liability if he reships adulterated or misbranded goods in interstate commerce. But where such a guaranty, as in this case, is given to a dealer regularly engaged in making interstate shipments and who may therefore have need of the guaranty, § 301 (h) imposes liability on the guarantor if that guaranty turns out to be false. And that liability attaches even where the particular shipment which renders the guaranty false is not alleged to have been an interstate one.

"It is significant that § 301 (h) had no counterpart in the predecessor statute, the Food and Drugs Act of 1906, 34 Stat. 768. Under § 9 of that Act, a dealer could not be prosecuted for shipping adulterated or misbranded articles in interstate commerce if he had a guaranty of a type similar to that referred to in the present statute. If there were such a guaranty, the guarantor was subject to the penalties which would otherwise attach to the dealer. The result was that the guarantor was not liable on account of a false guaranty unless the dealer had shipped the prohibited article in interstate commerce. *Steinhardt Bros. & Co. v. United States*, 191 F. 798, 800; *United States v. Charles L. Heinle Specialty Co.*, 175 F. 299, 300-301. There was no liability for issuing a false guaranty as such to one engaged in an interstate business. But in the

¹ Section 301 (h) prohibits "The giving of a guaranty or undertaking referred to in section 303 (c) (2), which guaranty or undertaking is false, except by a person who relied upon a guaranty or undertaking to the same effect signed by, and containing the name and address of, the person residing in the United States from whom he received in good faith the food, drug, device, or cosmetic; or the giving of a guaranty or undertaking referred to in section 303 (c) (3), which guaranty or undertaking is false."

² Section 303 (c) (2) provides that no person shall be subject to the penalties of § 303 (a) "for having violated section 301 (a) or (d), if he establishes a guaranty or undertaking signed by, and containing the name and address of, the person residing in the United States from whom he received in good faith the article, to the effect, in case of an alleged violation of section 301 (a), that such article is not adulterated or misbranded, within the meaning of this Act, designating this Act, or to the effect, in case of an alleged violation of section 301 (d), that such article is not an article which may not, under the provisions of section 404 or 505, be introduced into interstate commerce."

³ Section 301 (a) prohibits "The introduction or delivery for introduction into interstate commerce of any food, drug, device, or cosmetic that is adulterated or misbranded."

1938 Act, Congress added a new liability in the form of § 301 (h), making the guarantor liable for giving a false guaranty of the type referred to in § 303 (c) (2). We find it impossible to say that the framers of the 1938 Act added § 301 (h) for the useless purpose of achieving the same result as had been reached under the 1906 Act without such a provision.

"We thus conclude that § 301 (h) definitely proscribes the giving of a false guaranty to one engaged wholly or partly in an interstate business irrespective of whether that guaranty leads in any particular instance to an illegal shipment in interstate commerce. Such a construction is entirely consistent with the interstate setting of the Act. A manufacturer or processor ordinarily has no way of knowing whether a dealer, whose business includes making interstate sales, will redistribute a particular shipment in interstate or intrastate commerce. But if he guarantees that his product is not adulterated or misbranded within the meaning of the Act, he clearly intends to assure the dealer that the latter may redistribute the product in interstate commerce without incurring any of the liabilities of the Act. And the dealer is thereby more likely to engage in interstate distribution without making an independent check of the product. The possibility that a false guaranty may give rise to an illegal interstate shipment by such a dealer is strong enough to make reasonable the prohibition of all false guaranties to him, even though some of them may actually result only in intrastate distribution. By this means, some of the evils which Congress sought to eliminate are cut down at their source and the effectiveness of the Act's enforcement is greatly enhanced.

"So construed, § 301 (h) raises no constitutional difficulties. The commerce clause of the Constitution is not to be interpreted so as to deny to Congress the power to make effective its regulation of interstate commerce. Where that effectiveness depends upon a regulation or prohibition attaching regardless of whether the particular transaction in issue is interstate or intrastate in character, a transaction that concerns a business generally engaged in interstate commerce, Congress may act. Such is this case.

"The judgment of the District Court is accordingly *Reversed*."

JUSTICE JACKSON, *dissenting*: "Stretch the Food and Drugs Act as we will, I cannot make it cover this charge as a crime. The statutory scheme is to make a crime of 'The introduction or delivery for introduction into interstate commerce' of adulterated or misbranded goods. 52 Stat. 1042, 21 U. S. C. § 331 (a) and (d).

"But since many shippers buy goods of others and do not know their precise ingredients, Congress allowed an escape for the violator, provided he acted in good faith and could trace the responsibility to another. This he must do by producing a signed guaranty or undertaking, and the statute requires that it shall be conditioned 'to the effect, *in case of an alleged violation of § 331 (a)*, that such article is not adulterated or misbranded . . . or to the effect, *in case of an alleged violation of § 331 (d)*, that such article is not an article' forbidden shipment by stated paragraphs of the Act. [Emphasis added.] 52 Stat. 1043, 21 U. S. C. § 333 (c).

"It will be noticed that Congress not only provided but repeated that the statutory bond required is 'in case of an alleged violation' by introducing or delivering for introduction of goods in interstate commerce. No such violation has been alleged here; these goods were never introduced or delivered for introduction into interstate commerce. But the Court seems to think it is enough that there are some grounds for expecting that this crime possibly, or probably, or perhaps pretty certainly, would eventually be committed.

"Of course, if the assured had committed this offense and had fallen back on the guarantor, the statute which reached the assured would not be sufficient. To punish the responsible person, it was made a crime to give a false guaranty 'referred to in' the statute. 52 Stat. 1042, 21 U. S. C. § 331 (h).

"The Government now seeks to exact criminal responsibility on a guarantee, expressly conditioned only 'in case of violation,' in a case of no violation. Until a violation is alleged, the guaranty plays no statutory role at all. It might afford a cause of action if false, but that is quite different from making it a crime. For it is no guaranty at all for criminal prosecution purposes if violation of neither § 331 (a) nor § 331 (d) is alleged. The statute requires such violation to be alleged only; not proved, in order to put the guarantor rather than the assured to the proof. This is the only instance I recall where the guar-

antor is liable when there is no breach of the condition of the bond. The whole plan was to have a substituted liability in case the violator of the Act became such in good faith. This decision makes a new, independent and original liability where there has been no alleged violation by moving the goods in interstate commerce.

"I do not think we should take such liberties in expanding a criminal statute in which the sovereign once was considered under a duty to be explicit and the subject entitled to the doubt."

On November 20, 1947, a new motion to dismiss having been filed in the District Court by the defendant, on the grounds that the Government had failed to furnish the defendant with a portion of the official sample, although required to do so by Section 702 (b) of the Federal Food, Drug, and Cosmetic Act, the motion was granted and the case was dismissed.

12996. Alleged misbranding of Vitaminerals. U. S. v. 68 Bottles and 100 Printed Price Lists * * *. Tried to the court. Verdict for claimant.
(F. D. C. No. 18988. Sample No. 12340-H.)

LIBEL FILED: January 18, 1946, District of Massachusetts. On April 22, 1946, the court ordered the case removed for trial to the Northern District of California.

ALLEGED SHIPMENT: On or about September 24, 1945, by the Vitaminerals Co., from Los Angeles, Calif. One hundred printed price lists were shipped separately on or about the same date.

PRODUCT: 68 bottles of Vitaminerals and 100 printed price lists at Boston, Mass. Examination of the product showed that it was a mixture of dextrose sugar, wheat germ, and a small amount of malt.

NATURE OF CHARGE: Misbranding, Section 403 (a), it was alleged that the statements on the bottle label and the printed price lists were false and misleading in that they represented and suggested that the article when used as directed was an effective aid in following a reducing diet, in preventing discomfort due to diminished food intake, and in curbing the appetite; and that the article was of no significant value for such purposes. It was alleged further that the label designation "Vitaminerals" was false and misleading, in that the article was not a significant source of vitamins and minerals needed by man, as the designation represented and suggested.

DISPOSITION: On September 3 and 4, 1947, the Vitaminerals Co., claimant, having filed an answer denying the material allegations of the libel, the case was tried to the court. On December 3 the court made the following findings of fact and conclusions of law and entered judgment for the claimant, dismissing the libel:

HARRIS, District Judge:

FINDINGS OF FACT

"1. That Claimant, Vitaminerals Co., did, on or about September 24, 1946, as alleged in the libel of information on file herein, ship in interstate commerce from Los Angeles, California, to Boston, Massachusetts, via Railway Express Agency, an article of food consisting of 68 bottles, more or less, labelled in part:

No. 5 Vitaminerals A palatable nutritional supplement composed of defatted, dehydrated wheat embryo, non-diastatic malt, dextrose and vitamin B₁, for use in a required low caloric diet as an aid in appeasing the appetite for excess food.

And via parcel post, on or about September 24, 1946, 100 printed price lists, more or less, entitled 'VITAMINERALS CO.'

"2. That thereafter the Marshal of the District Court of the United States for the District of Massachusetts, pursuant to the Libel of Information in this case, did seize said articles of food and said price lists, and the same are now in his possession or under his control.

"3. That Vitaminerals Co. did file a verified claim of ownership to the articles seized in the Complaint herein.

"4. That the Claimant, Vitaminerals Co., did file an Answer in the cause herein.

"5. That upon application of Claimant, Vitaminerals Co., said cause was transferred from the District Court of the United States for the District of

Massachusetts to the above-entitled Court, and this Court now has jurisdiction of said cause pursuant to Section 304 (a) of the Food, Drug, and Cosmetic Act, 21 U. S. C. 334.

"6. That the bottle label (Libellant's Exhibit 1) is accurate in its representation that the aforesaid article is 'for use in a required low caloric diet as an aid in appeasing the appetite for excess food.'

"7. That the statements in Claimant's price list (Libellant's Exhibit 4) 'appetite curb tablets * * * to aid in diminishing hunger pains during weight reduction regimen' are not false or misleading.

"8. That the notation 'VITAMINERALS' appearing upon the label affixed to the aforesaid article (Libellant's Exhibit 1) is a purely fanciful and arbitrary word, used by the Claimant on the aforesaid article and approximately 34 of Claimant's other products, as a trade mark to denote the origin of such goods, and that said trade mark 'VITAMINERALS' as used on Claimant's bottle label (Libellant's Exhibit 1) neither represents nor suggests the vitamin or mineral content of the aforesaid article.

"9. That Claimant, Vitaminerals Co., is the owner of the articles seized and as such owner is entitled to the return of said articles.

"10. That the aforesaid article is of the composition stated upon Claimant's label (Libellant's Exhibit 1), and that none of the statements upon said label are false or misleading.

CONCLUSIONS OF LAW

I.

"This Court has jurisdiction of this libel of information, the article of food 'VITAMINERALS NO. 5,' and the parties hereto.

II.

"The Claimant's bottle label (Libellant's Exhibit 1) does not constitute misbranding in interstate commerce within the meaning of the Federal Food, Drug and Cosmetic Act (21 USC 343 (a), or any other section thereof), in any of its particulars, and the statements appearing thereon are neither false nor misleading.

III.

"Claimant's price lists entitled 'VITAMINERALS CO.' (Libellant's Exhibit 4) does not constitute misbranding within the meaning of the Federal Food, Drug and Cosmetic Act (21 USC 343 (a), or any other section thereof), in any of the particulars stated on Page 12 thereof with respect to the aforesaid article 'V. M. No. 5,' and the statements appearing therein are neither false nor misleading.

IV.

"Libellant herein, having completely failed to support the allegations of the libel of information by satisfactory proof, Respondent is entitled to a dismissal of the said libel of information with prejudice, and to the return of the articles and price lists seized, together with its taxable costs herein."

12997. Adulteration of Cal-Vitaron tablets. U. S. v. The Warren-Teed Products Co. Plea of guilty. Fine, \$300. (F. D. C. No. 20178. Sample No. 35915-H.)

INFORMATION FILED: February 26, 1947, Southern District of Ohio, against the Warren-Teed Products Co., a corporation, Columbus, Ohio.

ALLEGED SHIPMENT: On or about November 6, 1945, from the State of Ohio into the State of Missouri.

NATURE OF CHARGE: Adulteration, Section 402 (b) (1), a valuable constituent, vitamin D, had been in part omitted and abstracted from the article, in that each tablet of the article was represented to contain 100 U. S. P. units of vitamin D, whereas each tablet contained less than that amount of vitamin D.

The information charged also that the defendant shipped in interstate commerce a misbranded drug known as Vitaroid tablets, as reported in notices of judgment on drugs and devices, No. 2269.

DISPOSITION: April 7, 1947. A plea of guilty having been entered, the court imposed a fine of \$300 on the count charging adulteration of the Cal-Vitaron tablets and a fine in the same amount on the remaining count charging adulteration of the Vitaroid tablets.

12998. Misbranding of Ramol. U. S. v. Benjamin Ostroff. Plea of nolo contendere. Fine, \$75 and costs. (F. D. C. No. 23234. Sample Nos. 52766-H, 53921-H, 53922-H, 60869-H.)

INFORMATION FILED: October 7, 1947, Western District of Pennsylvania, against Benjamin Ostroff, Pittsburgh, Pa.

ALLEGED SHIPMENT: On or about September 20 and October 1, 18, and 30, 1946, from the State of Pennsylvania into the State of Ohio.

LABEL, IN PART: "Ramol No. 350 U. S. P."

NATURE OF CHARGE: Misbranding, Section 403 (b), the article consisted of mineral oil, a nonnutritive substance, and it was offered for sale under the name of another food, salad oil, a nutritive substance; and, Section 403 (i) (1), the label of the article failed to bear the common or usual name of the article, i. e., mineral oil.

The article was alleged also to be misbranded under the provisions of the law applicable to drugs, as reported in notices of judgment on drugs and devices, No. 2296.

DISPOSITION: December 12, 1947. A plea of nolo contendere having been entered, the court imposed a fine of \$75, plus costs.

12999. Misbranding of Morgan preparations. U. S. v. 300 Bottles of Morgan 1 Tablets, etc. (F. D. C. No. 17437. Sample No. 2928-H.)

LIBEL FILED: September 7, 1945, District of Columbia.

PRODUCT: 300 bottles of Morgan 1 tablets, 300 bottles of Morgan 2 tablets, 350 bottles of Morgan 3 capsules, 300 bottles of Morgan 4 tablets, 300 bottles of Morgan 7 capsules, 325 bottles of Morgan 9 tablets, and 350 bottles of Morgan 14 capsules, at Washington, D. C., together with a number of accompanying booklets entitled "Class Lesson Number One," "Class Lesson Number Two," "Class Lesson Number Three," "Class Lesson Number Four," and "New Bodies for Old." The products were held and intended for sale in commerce within the District of Columbia.

NATURE OF CHARGE: Misbranding, Section 403 (a), certain statements in the booklets were false and misleading.

The articles were alleged also to be misbranded under the provisions of the law applicable to drugs, as reported in notices of judgment on drugs and devices, No. 2285, in which excerpts from the labels indicating the composition of the products are set forth, and the nature of the false and misleading claims is described.

DISPOSITION: Sarah I. Morgan, Baltimore, Md., appeared as claimant and filed an answer consenting to the destruction of the Morgan 14 capsules. The claimant consented also to the condemnation of the other products, but prayed for their release under bond. On November 8, 1945, judgment of condemnation was entered and it was ordered that the Morgan 14 capsules be destroyed and that the other products be released under bond for remanufacturing and relabeling under the supervision of the Food and Drug Administration. On June 14, 1946, and with the consent of the claimant, an amended decree was entered, ordering that all of the products, together with the accompanying booklets, be destroyed.

13000. Misbranding of Morgan preparations. U. S. v. 100 Bottles of Morgan 1 Tablets, etc. (F. D. C. No. 17461. Sample No. 10928-H.)

LIBEL FILED: September 12, 1945, Western District of Pennsylvania.

ALLEGED SHIPMENT: On or about August 31, 1945, Sarah I. Morgan caused the Q-V Corporation to ship quantities of the Morgan preparations from Kalamazoo, Mich., to Pittsburgh, Pa.; and on or about September 10, 1945, Sarah I. Morgan caused J. T. Regardie to ship a number of booklets relating to the preparations from Silver Spring, Md., to Pittsburgh, Pa.

PRODUCT: 100 bottles of Morgan 1 tablets, 200 bottles of Morgan 2 tablets, 200 bottles of Morgan 3 capsules, 200 bottles of Morgan 4 tablets, 100 bottles of

Morgan 7 capsules, and 100 bottles of Morgan 9 tablets, at Pittsburgh, Pa., together with a number of accompanying booklets entitled "Class Lesson Number One," "Class Lesson Number Two," "Class Lesson Number Three," "Class Lesson Number Four," and "New Bodies for Old."

NATURE OF CHARGE: Misbranding, Section 403 (a), certain statements in the booklets were false and misleading.

The articles were alleged also to be misbranded under the provisions of the law applicable to drugs, as reported in notices of judgment on drugs and devices, No. 2286, in which is indicated the nature of the false and misleading claims involved.

DISPOSITION: On September 26, 1945, Sarah I. Morgan, claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the products were ordered released under bond for relabeling under the supervision of the Federal Security Agency. On May 27, 1946, pursuant to the consent of the claimant, an order was entered providing for the destruction of the products.

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Crab cocktail	12911-12913	Greens, turnip, canned	12958
meat	12908, 12909	Haddock fillets, frozen	12904

¹ (12862) Seizure contested. Contains opinion of the court.

² (12833, 12996) Seizure contested. Contains findings of fact and conclusions of law.

³ (12872) Preliminary injunction granted. Complaint dismissed upon evidence of compliance with law.

⁴ (12848) Prosecution contested.

⁵ (12819) Seizure contested. Contains opinion of Circuit Court of Appeals.

	N. J. No.		N. J. No.
Ice cream-----	12893	Preserves. <i>See</i> Jelly and pre-	
Jelly and preserves-----	12935-12938	serves.	
Kaffee Hag coffee-----	12806	Pretzels-----	12843
Kona Coffee (raw coffee)-----	12807	Prunes, dried-----	12925
Lemonade beverage base-----	12830	Ramol-----	12998
Ling fillets, frozen-----	12905	Raspberries, frozen-----	12928-12930
Macaroni and noodle products		Raspberry-pineapple marmalade-----	12935
⁴ 12848-12851		puree-----	12932
Marmalade, cherry-pineapple, and		Rennet, goat-----	12894
raspberry-pineapple-----	12935	Rolls-----	12837
Meat extender-----	12991	Root beer-----	12805
Milk curd, skim-----	12873	Rosefish fillets, frozen-----	12906
Morgan 1 tablets, Morgan 2 tab-		Salad dressing-----	12985
lets, Morgan 3 capsules, Mor-		Sardines, frozen-----	12907
gan 4 tablets, Morgan 7 cap-		Sausage binder-----	12991
sules, and Morgan 9 tablets--		Sea food products-----	12911-12920
12999, 13000		Shellfish. <i>See</i> Fish and shellfish.	
14 capsules-----	12999	Shrimp, canned-----	12910
Noodles, egg-----	12850, 12851	Creole-----	12916, 12917
<i>See also</i> Macaroni and noodle		Spaghetti. <i>See</i> Macaroni and	
products.		noodle products.	
Nuts and nut products-----	12983-12988	Spices, flavors, and seasoning ma-	
Okra, canned-----	12946, 12947	terials-----	12991-12994
Orange juice-----	12813-12815	Stabilizer, beverage-----	² 12833, 12834
and grapefruit juice-----	12813-12817	Strawberries, frozen-----	12931, 12932
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Oyster cocktail-----	12913-12915	12832	
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stew-----	12915	puree-----	12933, 12934
Peaches, canned-----	12922, 12923	soda-----	12805
Peanut(s)-----	12984	Sugar extender-----	12835
butter-----	12985-12987	Sundae topping-----	12832
cheese sandwiches-----	12842	Tomato(es), canned-----	12959-12971
sugar toasted-----	12856	catsup-----	12972-12975
Peas, canned-----	12951-12956	juice-----	⁵ 12819, 12820
black-eye-----	12956	paste-----	12959
field-----	12949	puree-----	12959, 12976-12981
with snaps-----	12950	sauce-----	12981, 12982
dried-----	12948	Turkeys, dressed-----	12990
Pepper, black-----	12992, 12993	Turnip greens, canned-----	12958
chili-----	12994	Vanilla fountain sirup-----	12821
imitation-----	12991	Vinegar, wine-----	12939
Phosphated flour-----	12846	Vitamin, mineral, and other prod-	
Pickles-----	12957	ucts of special dietary signifi-	
Pineapple beverage sirup--	12821, 12832	cance-----	¹ 12862, ^{2,6} 12995-13000
Popcorn-----	12854, 12855	Vitaminerals-----	² 12996
confections-----	12857	Walnut meats-----	12988
Potato chips-----	12985	Whole wheat flour-----	12847
Poultry-----	12989, 12990	Wine-----	12822-12829
		vinegar-----	12939

SHIPPERS, MANUFACTURERS, AND DISTRIBUTORS

	N. J. No.		N. J. No.
Affiliated Food Distributors, Inc.:		Allen Canning Co.:	
orange juice and blended orange		canned tomatoes-----	12970
and grapefruit juice--	12813, 12814	American Factors, Ltd.:	
Alabama Products Canning Co.:		Kona Coffee (raw coffee)-----	12807
canned okra-----	12946		

¹ (12862) Seizure contested. Contains opinion of the court.² (12833, 12996) Seizure contested. Contains findings of fact and conclusions of law.⁴ (12848) Prosecution contested.⁵ (12819) Seizure contested. Contains opinion of Circuit Court of Appeals.⁶ (12995) Prosecution contested. Contains opinion of the court.

	N. J. No.		N. J. No.
Arden Sunfreze Creameries, Inc. See Creameries of America, Inc.:		Brog, Ernest:	
Armour & Co.:		Swiss cheese-----	12885
butter-----	12880	Brown, Cecil, Fig. Co.:	
Armour Creameries:		blackberry preserves-----	12936
butter-----	12880	Brown Packing Co.:	
whole eggs and egg yolks, frozen-----	12900	strawberry puree-----	12934
Army Packing Co., Inc.:		Bruzek, D. R.:	
grape beverage-----	12809	beer-----	12801
Aster Nut Products Co.:		Burkey's Creamery:	
peanut butter-----	12987	butter-----	12883
Aunt Lil's Food Products, Inc.:		Busalacchi Bros. Co.:	
grape juice-----	12811	frozen haddock fillets-----	12904
Aunt Martha Wayside Farm:		Cain, J. N.:	
candy-----	12867	grape beverage-----	12808
Bartolett, F. S.:		California Wine Co.:	
strawberry puree-----	12933	wine-----	12823
Basic Food Materials, Inc.:		Caltone Corp.:	
imitation pepper, sausage bind- er, and meat extender-----	12991	Grape-Ade beverage-----	12810
Baxter, J. C.:		Camp, William A., Co., Inc.:	
cookies-----	12838	mixed nuts-----	12983
Beerend, R. F.:		Candymasters, Inc.:	
imitation pepper, sausage bind- er, and meat extender-----	12991	candy-----	12863
Belmont Canning Co.:		Cardia, Thomas:	
canned tomatoes-----	12961, 12962	frozen raspberries-----	12930
Benson Mfg. Co.:		Carlay Co.:	
caramels-----	12871	Ayds candy-----	¹ 12862
Berens, Edward:		Case, P. W.:	
butter, cheese, and cheese prod- ucts-----	³ 12872	canned pork and beans-----	12941
Berlin Milling Co., Inc.:		Case-Swayne Co., Inc.:	
flour-----	12845	canned pork and beans-----	12941
Berlo Vending Co.:		Cherokee County Canning Co.:	
sugar toasted peanuts-----	12856	canned tomatoes-----	12969
Berrien County Cooperative Fruit Exchange:		Cinnama-Tang Products Co.:	
frozen grapes-----	12927	jelly-----	12938
Bertola, Anthony:		Columbian Peanut Co.:	
wine vinegar-----	12939	peanuts-----	12984
Bertola, A., & Co. See Bertola, Anthony.		Cooper Canning Co.:	
Birk Bros. Brewing Co.:		canned tomatoes-----	12963
beer-----	12804	Cortley Frosted Foods, Inc.:	
Bisceglia Brothers Wine Co.:		frozen cherries-----	12926
wine-----	12825	Costello, J. H.:	
Blancand, Gus, Wholesale Liq- uors:		butter, cream, and skim milk curd-----	12873
wine-----	12829	Creameries of America, Inc.:	
Bond, J. W.:		butter-----	12880
popcorn-----	12855	Creole Food Co. of New Orleans, Inc.:	
Breyer Ice Cream Co.:		oyster soup, canned-----	12916
strawberry puree-----	12933	shrimp Creole, canned--	12916, 12917
Briggs, C. A.:		Cugnato, Tony:	
candy-----	12859	frozen sardines-----	12907
Briggs, C. A., Co.:		Damore Spice Co.:	
candy-----	12859	black pepper-----	12992
		Dante Food Products Co.:	
		egg noodles-----	12851
		De Kalb Canning Co.:	
		canned tomatoes-----	12966
		De Soto Canning Co.:	
		orange juice and blended orange and grapefruit juice--	12815

¹ (12862) Seizure contested. Contains opinion of the court.³ (12872) Preliminary injunction granted. Complaint dismissed upon evidence of compliance with law.

	N. J. No.		N. J. No.
Del Bay Sea Foods Co., Inc.:		Gibson Food Co.:	
frozen ling fillets-----	12905	peanut butter, potato chips, and	
Delmonico Foods, Inc.:		salad dressing-----	12985
tomato puree-----	12978	Gildener & Schimmel, Inc.:	
Denison Poultry Feed & Egg Co.:		butter-----	12884
butter-----	12881	Gildener, A., Co.:	
Dortch Baking Co.:		butter-----	12884
cookies-----	12839	Ginsberg, T. A.:	
Dryden & Co.:		black pepper-----	12992
rock candy crystals-----	12868	Golden, Morris:	
Dubuque Cooperative Dairy Mar-		sugar toasted peanuts-----	12856
keting Assoc.:		Gonzales & Blanco:	
Cheddar cheese-----	12888	chili pepper-----	12994
Eagle Bottling Works. <i>See</i>		Good, A. J.:	
Napple, Mike.		butter-----	12876
Eagle Pass Food Products, Inc.:		Graham Sea Food Co.:	
canned tomatoes-----	12967	crab meat-----	12909
Elkhart Lake Canning Co.:		Graves, F. R.:	
canned peas-----	12951	frozen whole eggs-----	12895
Elsa Canning Co.:		Groveland Products Co., Inc.:	
canned tomatoes-----	12971	cherry-pineapple marmalade	
Equity Union Creameries, Inc.:		and raspberry-pineapple mar-	
butter-----	12878	malade-----	12935
Erickson, Carl:		Guttenberg Wine Co.:	
Swiss cheese-----	12885	wine-----	12828
Fame Canning Co., Inc.:		Haines Oyster Co.:	
canned peas-----	12952	clam nectar-----	12920
Farmers Produce Co. <i>See</i> Kap-		Hart & Howell Co.:	
lan, I. E.		popcorn-----	12854
Fergus County Creamery, Inc.:		Haxton, George W., & Son, Inc.:	
whole eggs and egg yolks,		frozen raspberries-----	12929
frozen-----	12900	Henry, De Witt P., Co.:	
Fitch, Cornell & Co.:		candy Easter eggs-----	12869
butter-----	12879	Hintlian, M. H.:	
Food Center. <i>See</i> Ginsberg, T.		candy-----	12860
A.		Holbrook Turkey Growers Coop.	
Foote, D. E., & Co., Inc.:		Assoc.:	
canned tomato puree-----	12976	dressed turkeys-----	12990
Forhan, H. L., Co.:		Holland's Frosted Foods:	
canned blueberries-----	12921	crab cocktail-----	12911
Frigid Food Products:		Honorco, Inc.:	
frozen strawberries-----	12931	tomato catsup-----	12975
Frozen Cooked Foods Co.:		Horsey, J. William, Corp.:	
crab meat cocktail-----	12912	asparagus, canned-----	12940
Frozen Cooked Specialties, Inc.:		orange juice and blended	
oyster stew and oyster cocktail,		orange and grapefruit juice	
frozen-----	12915	12813, 12814	
Fruit Bar Products Co.:		Howard's Syrups Co.:	
fruit confection-----	12858	beverage sirups and sundae top-	
Galioto, William, and J. B.:		ping-----	12832
macaroni products-----	12849	Huber, J. Y., Jr.:	
Galioto Bros. & Co.:		cookies-----	12838
macaroni products-----	12849	Hudson Duncan Co.:	
Garden State Biscuit Co., Inc.:		dried prunes-----	12925
cookies-----	12841	Humboldt Canning Co.:	
Gateway Farmer Creamery. <i>See</i>		canned tomatoes-----	12965
Schultz, E. R.		Hunt Foods, Inc.:	
General Food Sales Co., Inc.:		canned peaches-----	12922
Kaffee Hag coffee-----	12806	Hurff, Edgar F., Co.:	
Gerbo, D. L.:		tomato catsup-----	12974
macaroni products----- ⁴	12848		

⁴ (12848) Prosecution contested.

	N. J. No.		N. J. No.
Hygrade Food Products Corp. : butter, cheese, and cheese prod- ucts-----	³ 12872	McNutt, Kandy : candy -----	12866
Hy-Lan Candy Co., Inc. : candy -----	12870	Manchester Canning Co., Inc. : canned peaches-----	12923
Inglis, John, Co. : crab-meat cocktail-----	12912	Mankato Brewing Co. : beer-----	12801
Isaly's Dairy Co. : grape-flavored sirup-----	12812	Maria, Frank : raw goat rennet-----	12894
Island Seafood Co., Inc. : crab cocktail and oyster cock- tail, frozen-----	12913	Martinelli, Albert : macaroni products-----	⁴ 12848
Kandy McNutt : candy -----	12866	Mayflower Fisheries : frozen haddock fillets-----	12904
Kaplan, I. E. : frozen whole eggs-----	12895	Melody, G. C. : canned dog food-----	12902
Kauffmann, C. C. : Cheddar cheese-----	12888	Mendenhall, A. W., Co. : fountain sirups-----	12821
Keebler-Weyl Baking Co., Div. of United Biscuit Co. of Amer- ica. <i>See</i> United Biscuit Co. of America.		Mendota Creamery. <i>See</i> Costello, J. H.	
Kelley Clark Co. : clam nectar-----	12920	Merchants Grocery Co. : macaroni products-----	12849
Kelp Laboratories. <i>See</i> Walsh, Michael.		Metropolis Brewery, Inc. : beer -----	12802
Kolstad Canneries, Inc. : canned cut green beans-----	12944	Midfield Packers : frozen cherries-----	12926
Kraft Foods Co. : cheese, Cheddar-----	12890	Minervini, John : tomatoes, tomato paste, and to- mato puree, canned-----	12959
process-----	12887	Monarch Wine Co., Inc. : wine-----	12826
Krispy Kone Co. : popcorn confections-----	12857	Monte Cassino Wine Co : wine -----	12824
Kruse, Herman : strawberry puree-----	12933	Montgomery Canning Co. : tomato sauce and tomato puree_	12981
Lakeside Packing Co. : canned corn-----	12945	Montpelier Food Products Corp. : tomato catsup-----	12974, 12975
Lang, T. C. : butter, cream, and skim milk curd -----	12873	Moore Milling Co., Inc. : phosphated flour and corn meal -----	12846
Langford & Taylor : canned field peas-----	12949	Morgan, S. I. : Morgan preparations-----	13000
Lee Chocolate Co. : candy -----	12865	Morten Milling Co. <i>See</i> Tex-O- Kan Flour Mills Co.	
LeFrois, J. B., & Sons : tomato puree-----	12980	Naas Corp. of Indiana : tomato catsup-----	12973
Libby, McNeill & Libby, Inc. : tomato sauce-----	12982	Napple, Mike : carbonated beverages-----	12805
Lineboro Canning Co., Inc. : canned peas-----	12953	New England Pickle Co. : pickles -----	12957
Logan Square Packers : peanut cheese sandwiches-----	12842	Nolte, Julia, Chocolates Co. : candy -----	12860
Lopez, J. B., and F. S. : canned shrimp-----	12910	North American Creameries, Inc. : frozen whole eggs-----	12896
Lopez', L., Sons : canned shrimp-----	12910	North Atlantic Fish Co : frozen rosefish fillets-----	12906
Lytton Cooperative Creamery As- soc. : butter -----	12879	Northwestern Canning & Packing Co. : canned black-eye peas-----	12956

³ (12872) Preliminary injunction granted. Complaint dismissed upon evidence of compliance with law.

⁴ (12848) Prosecution contested.

	N. J. No.		N. J. No.
O'Donnell & Co.:		Rio Hondo Canning Co.:	
beverage bases-----	12831	canned tomatoes-----	12968
orange flavor sirup-----	12818	tomato puree-----	12979
Ohio Pure Food Co.:		Rio-Tex Products Co.:	
dried egg yolk-----	12901	canned tomatoes-----	12968
Old Fashioned Millers, Inc.:		Roberts Bros., Inc.:	
whole wheat flour-----	12847	canned tomatoes-----	12964
Orleans County Canning Co.:		Robinson Canning Co.:	
tomato puree-----	12980	canned tomatoes-----	12970
Ostroff, Benjamin:		Roma Macaroni Factory:	
Ramol-----	12998	macaroni products-----	⁴ 12848
Otten, Carl, Poultry Co.:		Salamonie Packing Co.:	
frozen whole eggs-----	12899	tomato juice-----	⁵ 12819
Pacific Coast Packing Co.:		Salter Canning Co., Inc.:	
strawberry preserves-----	12937	canned peas-----	12955
Pacific Fruit & Produce Co.:		Santa Rosa Canning Co.:	
tomato juice-----	12820	tomato puree-----	12979
Parsons Creamery & Locker Co.:		Sardik Food Products Corp.:	
butter-----	12874	tomato catsup-----	12972
Pasco Packing Co.:		Sasson-King, Ltd.:	
canned orange and grapefruit		canned blended orange and	
juice-----	12817	grapefruit juice-----	12816
Patent Cereals Co.:		Schilling, S., Co.:	
corn grits-----	12852	wine-----	12827
Pauli, R. C., & Sons:		Schouten, Hubert, and C. B.:	
black pepper-----	12993	bread, cake, and rolls-----	12837
Peanut Corp. of America:		Schouten's Bakery, Inc.:	
peanut butter-----	12986	bread, cake, and rolls-----	12837
Peanut Products Co. <i>See</i> Peanut		Schultz, E. R.:	
Corp. of America.		butter-----	12877
Perfect Foods, Inc.:		Security Liquor Co.:	
pretzels-----	12843	wine-----	12828
Phelan Co.:		Seene, P. H.:	
blackberry preserves-----	12936	red raspberry puree and frozen	
Pickerington Creamery Co., Inc.:		sliced strawberries-----	12932
butter-----	12876	Serata, Jacob:	
Pilser Brewing Co., Inc.:		sugar toasted peanuts-----	12856
beer-----	12803	Sethness, W. D.:	
Pine Grove Canning Co., Inc.:		beverage bases-----	12830
canned okra-----	12947	Sethness, C. O. & W. D., Co.:	
Ploeger-Abbott Co.:		beverage bases-----	12830
canned field peas with snaps---	12950	Esterex-----	² 12833, 12834
Q-V Corp.:		Shaghalian's, Inc.:	
Morgan preparations-----	13000	candy-----	12860
Quality Products, Inc.:		Silver Hill Products, Inc.:	
tomato puree-----	12977	clam chowder-----	12919
Quillin, B. P.:		Sisk, Albert W., & Son:	
flour-----	12845	canned tomatoes-----	12960
Rahal, F. L.:		Smith Poultry Co., Inc.:	
red raspberry puree and frozen		poultry-----	12989
sliced strawberries-----	12932	South Atlantic Canning Co.:	
Rardin Grain Co.:		canned turnip greens-----	12958
shelled corn-----	12853	Standard Grocery Co.:	
Regardie, J. T.:		blended orange and grapefruit	
Morgan preparations-----	13000	juice-----	12813
Richardson, L. E., and G. F.:		Star Valley Swiss Cheese Assoc.:	
bread-----	12836	Swiss cheese-----	12885
Richardson Baking Co. <i>See</i> Rich-		Steele, S. G.:	
ardson, L. E., and G. F.		ice cream-----	12893
		Steele's Dairy. <i>See</i> Steele, S. G.	

² (12833, 12996) Seizure contested. Contains findings of fact and conclusions of law.

⁴ (12848) Prosecution contested.

⁵ (12819) Seizure contested. Contains opinion of Circuit Court of Appeals.

	N. J. No.		N. J. No.
Sterling Point Frosted Foods:		Valders Canning Co.:	
oyster stew and oyster cocktail,		canned peas-----	12954
frozen-----	12915	Vinehill Winery:	
Stokely-Van Camp, Inc.:		wine-----	12829
canned Mexican Style beans--	12942,	Vita Food Products, Inc.:	
	12943	anchovy paste-----	12918
peas-----	12952	Vitaminerals Co.:	
Stone, L. R.:		Vitaminerals----- ²	12996
candy-----	12861	Vitaplex Co.:	
Stone, L. R., Co., Inc.:		sugar extender-----	12835
candy-----	12861	Walcott, H. W.:	
Sunshine Packing Corp. of Penn-		dried peas-----	12948
sylvania:		Walker, H. F.:	
red raspberry puree and frozen		oyster cocktail-----	12914
sliced strawberries-----	12932	Walsh, Michael:	
Supreme Dairy Products Co.:		vitamin tablets----- ⁶	12995
Cheddar cheese-----	12891, 12892	Warren-Teed Products Co.:	
Swift & Co.:		Cal-Vitaron tablets-----	12997
Cheddar cheese-----	12889	Washington Packers, Inc.:	
eggs, frozen-----	12898	frozen raspberries-----	12928
Taylor-Walcott Co.:		Watertown Egg & Produce Co.:	
dried peas-----	12948	frozen whole eggs-----	12897
Temple Cotton Oil Co.:		Watkins Produce Co.:	
dairy feed-----	12903	canned tomatoes-----	12962
Tex-O-Kan Flour Mills Co.:		Weiss Noodle Co.:	
flour-----	12844	noodle products-----	12850
Town Talk Industries:		Whitson Candy Co.:	
cookies-----	12840	candy-----	12864
Tri-State Butter Co.:		Whittier Walnut Packing Co.:	
butter-----	12875	walnut meats-----	12938
Troy Dairy Products:		Willits, S. F.:	
butter-----	12882	flour-----	12844
United Biscuit Co. of America:		Wilshire Cheese Co., Inc.:	
cookies-----	12838	process cheese-----	12886
United Sea Food Co.:		Wilson & Co.:	
crab meat-----	12908	process cheese-----	12886
United States Products Corp.,		Wine Corp. of America:	
Ltd.:		wine-----	12822, 12823
canned fruit cocktail-----	12924	Wulfin Grocer Co.:	
Val Vita Food Co.:		tomato catsup-----	12973
canned peaches-----	12922		

² (12833, 12996) Seizure contested. Contains findings of fact and conclusions of law.

⁶ (12995) Prosecution contested. Contains opinion of the court.



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FEDERAL SECURITY AGENCY

FOOD AND DRUG ADMINISTRATION

NOTICES OF JUDGMENT UNDER THE FEDERAL FOOD, DRUG,
AND COSMETIC ACT

[Given pursuant to section 705 of the Food, Drug, and Cosmetic Act]

13001-13200

FOODS

The cases reported herewith were instituted in the United States district courts by the United States attorneys acting upon reports submitted by direction of the Federal Security Administrator.

OSCAR R. EWING, *Administrator, Federal Security Agency.*

WASHINGTON, D. C., *September 28, 1948.*

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BEVERAGES AND BEVERAGE MATERIALS*

13001. **Adulteration of beer. U. S. v. 320 Cases * * * (and 5 other seizure actions).** (F. D. C. Nos. 21175, 21318, 21353, 21355, 21357, 21376. Sample Nos. 33222-H, 40751-H, 40783-H, 40785-H, 53456-H, 70648-H.)

LIBELS FILED: Between October 9 and 24, 1946, Eastern District of Tennessee, Eastern District of Missouri, Western District of Oklahoma, and Southern District of California.

ALLEGED SHIPMENT: Between the approximate dates of September 5 and 26, 1946, by King Cole Breweries, Inc., from Chicago Heights, Ill.

PRODUCT: Beer. 129 31-gallon barrels at Knoxville, Tenn., 320 cases at Cape Girardeau, Mo., 270 cases at Sikeston, Mo., 1,500 cases at Clinton, Okla., 1,544 cases at Long Beach Calif., and 42 cases at St. Louis, Mo. Each case contained 24 12-ounce bottles.

*See also No. 13199.

LABEL, IN PART: "Maltaza Select Beer," or "Headlite Lager Beer."

NATURE OF CHARGE: Adulteration, Section 402 (a) (2), the product contained an added poisonous and deleterious substance, monochloroacetic acid, which is unsafe within the meaning of the law, since it is a substance not required in the production of the product and could have been avoided by good manufacturing practice.

DISPOSITION: Between October 22, 1946, and December 3, 1946. The Golden Glow Beverage Co., Long Beach, Calif., appeared as claimant for the Long Beach lot and admitted the allegations of the libel; the King Cole Breweries, Inc., appeared as claimant for the Knoxville, Cape Girardeau, Sikeston, and Clinton lots, and consented to the entry of decrees. Thereupon, judgments of condemnation were entered and these lots were ordered released under bond, conditioned that the liquid contents be destroyed, under the supervision of the Federal Security Agency. On December 9, 1946, no claimant having appeared for the St. Louis lot, judgment of condemnation was entered and the court ordered the beer destroyed and the containers sold to the highest bidders.

13002. Adulteration of wine. U. S. v. 177 Cases, etc. (and 4 other seizure actions). (F. D. C. Nos. 22833, 22865, 22912, 22915, 22959. Sample Nos. 38564-H, 38568-H, 69364-H, 74315-H, 74324-H, 74325-H, 91209-H.)

LIBELS FILED: Between April 9 and 25, 1947, Northern District of Illinois, Eastern District of New York, and District of Massachusetts.

ALLEGED SHIPMENT: March 14, July 9, November 9, and December 5, 1946, and February 19, 1947, by Larkmead Vineyards, from St. Helena and Larkmead Station, Calif.

PRODUCT: Wine. 177 cases of red Chianti, 239 cases of Chablis, and 200 cases of claret, each containing 12 fifth-gallon bottles, 294 cases, each containing 4 1-gallon bottles, and 293 cases of Haut Sauterne, and 858 cases of red Chianti, each containing 12 fifth-gallon bottles, at Boston, Mass.; and 95 cases of Haut Sauterne, each containing 12 fifth-gallon bottles, at Brooklyn, N. Y. Analyses showed that the article contained between 48 and 245 parts per million of monochloroacetic acid.

LABEL, IN PART: "Larkmead Pure California Haut Sauterne [or "Chablis"]," "Brangno Imperial California Claret Wine," or "Pastene California Red Chianti."

NATURE OF CHARGE: Adulteration, Section 402 (a) (2), the product contained an added poisonous and deleterious substance, monochloroacetic acid, which is unsafe within the meaning of the law, since it is a substance not required in the production of the product and could have been avoided by good manufacturing practice.

DISPOSITION: July 31, September 12, and October 6, 1947. Default decrees of condemnation and destruction.

13003. Misbranding of beverage stabilizer. U. S. v. Arthur H. Decker (Chandler Laboratories). Plea of nolo contendere. Fine, \$200. (F. D. C. No. 23232. Sample Nos. 56879-H, 56880-H.)

INFORMATION FILED: September 12, 1947, Eastern District of Pennsylvania, against Arthur H. Decker, trading as Chandler Laboratories, Philadelphia, Pa.

ALLEGED SHIPMENT: On or about March 5 and April 10, 1946, from the State of Pennsylvania into the State of Rhode Island.

LABEL, IN PART: "Stabilizer #1295."

NATURE OF CHARGE: Misbranding, Section 403 (a), the labeling of the article was misleading, since the word "Stabilizer" represented to purchasers that the article was wholesome and suitable for use as a component of foods for man, whereas it contained approximately 17 grams of monochloroacetic acid per 100 cc., which is a poisonous and deleterious substance; and the labeling failed to reveal the material fact in the light of the representation made on the label, that the article contained a poisonous and deleterious substance.

DISPOSITION: March 18, 1948. A plea of nolo contendere having been entered by the defendant, a fine of \$200 was imposed.

13004. Misbranding of beverage stabilizer. U. S. v. 22 Jugs * * *. (F. D. C. No. 20533. Sample No. 49408-H.)

LIBEL FILED: January 31, 1947, Northern District of Texas.

ALLEGED SHIPMENT: On or about February 23 and March 16, 1946, by Theo Nett & Co., from Chicago, Ill.

PRODUCT: 22 1-gallon jugs of beverage stabilizer at Wichita Falls, Tex.

LABEL, IN PART: "Hi-Lo Topsy Stabilizer Ingredients: Sodium Chloride, Ammonium Chlorides, Alkyl, Dimethyl, Benzyl and Water. Directions: Use $\frac{1}{2}$ oz. to each gallon of Bottling Syrup. Net Contents 1 Gal."

NATURE OF CHARGE: Misbranding, Section 403 (a), the labeling of the article was misleading, since the statement appearing on the label, "Topsy Stabilizer * * * Directions: Use $\frac{1}{2}$ oz. to each gallon of Bottling Syrup," represented to purchasers that the product was wholesome and suitable for use as a component of foods for man. The product contained per 100 cc. about 1.30 grams of quaternary ammonium compound, which is a poisonous and deleterious substance, and the labeling failed to reveal the material fact in the light of the representations made on the label, that the product contained a poisonous and deleterious substance.

DISPOSITION: March 24, 1947. Default decree of condemnation and destruction.

13005. Misbranding of Syro. U. S. v. 15 Cases * * *. (F. D. C. No. 22472. Sample No. 61788-H.)

LIBEL FILED: February 7, 1947, Eastern District of Washington.

ALLEGED SHIPMENT: On or about August 16 and 28, 1946, by Chandler Laboratories, Inc., from Philadelphia, Pa.

PRODUCT: 15 cases, each containing 12 1-quart bottles, of Syro at Spokane, Wash. Analysis showed that the product was essentially a solution of table salt, with small quantities of other ingredients.

LABEL, IN PART: "Syro A Sugar Intensifier * * * Ingredients: Sodium Chloride, Propylene Glycol, Phosphoric Acid, Sodium Sulphate and Certified Color."

NATURE OF CHARGE: Misbranding, Section 403 (a), the label statements, "A Sugar Intensifier * * * To make syrup, using Syro, use 10% less sugar than usual to make the same volume of syrup. Then add Exactly $\frac{1}{8}$ ounce diluted Syro for each gallon finished syrup or use usual amount of sugar and enough water to increase final volume of finished syrup 10%. Then add Exactly $\frac{1}{8}$ ounce diluted Syro for each gallon finished syrup," were misleading. These statements represented and suggested and created the impression that the article was an effective substitute for a part of the normal sugar content of sugar sirup, whereas the article was without value for such purpose.

DISPOSITION: April 1, 1947. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

CEREALS AND CEREAL PRODUCTS

BAKERY PRODUCTS

13006. Adulteration of bakery products. U. S. v. Allied Baking Co. and Frank B. Grinnell. Pleas of guilty. Fines, \$400 against company and \$100 against individual. (F. D. C. No. 23335. Sample Nos. 57238-H, 57241-H to 57243-H, incl., 57246-H.)

INFORMATION FILED: April 14, 1948, District of Massachusetts, against the Allied Baking Co., a corporation, Springfield, Mass., and Frank B. Grinnell, president of the corporation.

ALLEGED SHIPMENT: On or about November 5, 7, 12, and 14, 1946, from the State of Massachusetts into the State of Connecticut.

LABEL, IN PART: "A B C Loaf Cake [or "Hermits," "Coffee Cake," or "Rye Bread"]."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the articles consisted in part of filthy substances by reason of the presence of insect fragments and rodent hair fragments; and, Section 402 (a) (4), they had been prepared and

packed under insanitary conditions whereby they may have become contaminated with filth.

DISPOSITION: May 4, 1948. Pleas of guilty having been entered, the court imposed fines of \$400 against the company and \$100 against the individual.

13007. Adulteration of bakery products. U. S. v. D. F. Stauffer Biscuit Co., a corporation, and David E. Stauffer. Pleas of nolo contendere. Corporation fined \$300 on 6 counts. Imposition of sentence against corporation suspended on 1 count and that against individual defendant suspended on all counts. Both defendants placed on probation for 2 years. (F. D. C. No. 23306. Sample Nos. 42562-H to 42564-H, incl., 64857-H, 64861-H, 64862-H, 64868-H.)

INFORMATION FILED: July 21, 1947, Middle District of Pennsylvania, against the D. F. Stauffer Biscuit Co., York, Pa., and David E. Stauffer, secretary and plant superintendent.

ALLEGED SHIPMENT: On or about January 20, 22, and 29, 1947, from the State of Pennsylvania into the States of Maryland and New York.

LABEL, IN PART: "Cracker Meal [or "B. E. Wafers"] * * * D. F. Stauffer Biscuit Company," "Zebras [or "Dainties"] * * * D. F. Stauffer Biscuit Co. * * * Distributed by Atlantic Biscuit Co., Brooklyn, N. Y." or "S. Dots [or "Saltines"] * * * D. F. Stauffer Biscuit Co. * * * Distributed by Supreme Distributing Co."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the products consisted in part of filthy substances by reason of the presence of larval heads, larval head capsules, insect fragments, mites, a feather fragment, insect fragments, and rodent hair fragments; and, Section 402 (a) (4), they have been prepared and packed under insanitary conditions whereby they may have become contaminated with filth.

DISPOSITION: December 1, 1947. Pleas of nolo contendere having been entered, the corporation was fined \$50 on each of 6 counts. Imposition of sentence against the corporation was suspended on 1 count and that against the individual was suspended on all counts, and both defendants were placed on probation for 2 years.

13008. Adulteration of bakery products. U. S. v. Peoples Baking Co. Plea of nolo contendere. Defendant fined \$50 and placed on 1 year's probation. (F. D. C. No. 22010. Sample Nos. 42256-H to 42263-H, incl., 42265-H to 42274-H, incl.)

INFORMATION FILED: May 2, 1947, Middle District of Pennsylvania, against the Peoples Baking Co., a partnership, New Freedom, Pa.

ALLEGED SHIPMENT: On or about December 6, 1946, from the State of Pennsylvania into the State of Maryland.

LABEL, IN PART: (Portion) "Summit Bread Rye [or "Graham," or "French Vienna"]."

NATURE OF CHARGE: Adulteration, Section 402 (a) (4), the product had been prepared and packed under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: December 1, 1947. A plea of nolo contendere having been entered, the defendant was fined \$50 and placed on probation for 1 year.

13009. Adulteration of bakery products. U. S. v. 8 Cartons, etc. (F. D. C. No. 24182. Sample Nos. 9791-K, 9792-K.)

LIBEL FILED: December 17, 1947, Southern District of New York.

ALLEGED SHIPMENT: On or about November 6, 1947, by the Affiliated Bakers Co., from Newark, N. J.

PRODUCT: 8 cartons, each containing 12 2-pound tins, of fruit cake and 3 cartons, each containing 12 12-ounce tins, of cookies at New York, N. Y.

LABEL, IN PART: "A B C Rum and Brandy Fruit Cake [or "Chocolate Fudge Tarties"]."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the products consisted in whole or in part of filthy substances by reason of the presence of insects, insect fragments, and rodent hair fragments; and, Section 402 (a) (4), they had been prepared under insanitary conditions whereby they may have become contaminated with filth.

DISPOSITION: January 7, 1948. Default decree of condemnation and destruction.

13010. Adulteration and misbranding of bread. U. S. v. Keller's, Inc., Eugene C. Keller, and James Vanderstein. Pleas of nolo contendere. Corporation fined \$125; individual defendants each fined \$25. (F. D. C. No. 21573. Sample Nos. 58664-H, 58665-H, 58669-H, 58670-H.)

INFORMATION FILED: February 28, 1947, District of Oregon, against Keller's, Inc., Portland, Oreg., Eugene C. Keller, president, and James Vanderstein, plant superintendent.

ALLEGED SHIPMENT: On or about April 17 and 24, 1946, from the State of Oregon into the State of Washington.

LABEL, IN PART: "Keller's Betsy Ross White Sliced 1½ Lbs. Added Vitamin B₁ and Iron Enriched For Better Nutrition One-half pound of this bread supplies you with at least the following amounts or percentages of your minimum daily requirement for these essential food substances: Thiamine (Vitamin B₁) 55% Riboflavin (Vitamin B₂) 17.5% Niacin (another B vitamin) 5 milligrams Iron 40%," "Keller's Butter Bread 1 lb.," or "Keller's White Sliced—1 Lb. [or "1½ Lbs."] Betsy Ross."

NATURE OF CHARGE: 1 lot. Adulteration, Section 402 (b) (1), valuable constituents, thiamine (vitamin B₁), riboflavin (vitamin B₂), and niacin, had been omitted, since one-half pound of the product would not provide 55 percent of the minimum daily requirement of thiamine, 17.5 percent of the minimum daily requirement of riboflavin, and 5 milligrams of niacin, but would provide smaller amounts of these vitamins. Misbranding, Section 403 (a), the label statements, "One-half pound of this bread supplies you with at least the following amounts or percentages of your minimum daily requirement of these essential food substances: Thiamine (Vitamin B₁) 55% Riboflavin (Vitamin B₂) 17.5% Niacin (another B vitamin) 5 milligrams," were false and misleading.

All lots. Misbranding, Section 403 (e) (2), the product failed to bear a label containing an accurate statement of the quantity of the contents. The label statements "1 Lb." or "1½ Lbs." were inaccurate, since the loaves of bread weighed less than 1 pound and 1½ pounds, respectively.

DISPOSITION: March 6, 1947. Pleas of nolo contendere having been entered, the corporation was fined \$125 and each individual defendant \$25.

13011. Adulteration and misbranding of bread. U. S. v. The L. Weinberg Baking Co. and Herman Weinberg. Pleas of guilty. Company fined \$300; individual, \$200. (F. D. C. No. 24099. Sample Nos. 73749-H, 73753-H, 73754-H.)

INFORMATION FILED: February 24, 1948, Southern District of Ohio, against the L. Weinberg Baking Co., a corporation, Cincinnati, Ohio, and Herman Weinberg, secretary and treasurer.

ALLEGED SHIPMENT: On or about July 31, 1947, from the State of Ohio into the State of Kentucky.

LABEL, IN PART: "Weinberg's Sandwich Loaf," "Weinberg's Premium," or "Weinberg's Poppy Seed or Sesame Vienna."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in part of a filthy substance by reason of the presence of insect fragments, rodent hair fragments, and a larva; and, Section 402 (a) (4), it had been prepared and packed under insanitary conditions whereby it may have become contaminated with filth.

Misbranding, Section 403 (a), the statement "Poppy Seed or Sesame Vienna" borne on the label of a portion of the bread was false and misleading, since that portion of the bread did not contain poppy or sesame seed.

DISPOSITION: April 28, 1948. Pleas of guilty having been entered, the court imposed fines of \$300 against the company and \$200 against the individual.

13012. Adulteration of bread. U. S. v. Polish Baking Company, Stephen Glowacki, and Leon Glowacki. Pleas of non vult. Imposition of sentence suspended. Defendants placed on 2 years' probation. (F. D. C. No. 24050. Sample Nos. 66573-H, 66574-H, 99983-H, 99984-H.)

INFORMATION FILED: January 7, 1948, District of New Jersey, against the Polish Baking Co., a partnership, Camden, N. J., and Stephen Glowacki and Leon Glowacki, partners.

ALLEGED SHIPMENT: On or about June 4 and August 26, 1947, from the State of New Jersey into the State of Pennsylvania.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a filthy substance by reason of the presence of rodent hair fragments and insect parts; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: February 6, 1948. Pleas of non vult having been entered, imposition of sentence was suspended and the defendants were placed on probation for 2 years.

13013. Adulteration of bread. U. S. v. Pfaff Baking Co. Plea of guilty. Fine, \$200 and costs. (F. D. C. No. 24077. Sample Nos. 24409-K, 24419-K.)

INFORMATION FILED: April 19, 1948, Northern District of Iowa, against the Pfaff Baking Co., a corporation, Fort Dodge, Iowa.

ALLEGED SHIPMENT: On or about September 17 and 18, 1947, from the State of Iowa into the State of Minnesota.

LABEL, IN PART: "Pfaff's Enriched Betsy Ross Sliced Bread."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a filthy substance by reason of the presence of insect fragments, mites, and rodent hair fragments; and, Section 402 (a) (4), it had been prepared and packed under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: April 19, 1948. A plea of guilty having been entered on behalf of the defendant, a fine of \$200, plus costs, was imposed.

13014. Misbranding of bread. U. S. v. Continental Baking Co., a corporation, and Curtis C. Haggerty and Louie C. Wuerch. Pleas of guilty. Corporation fined \$700 and costs; each individual fined \$70. (F. D. C. No. 24104. Sample Nos. 77831-H, 36106-K, 36107-K, 36109-K, 36110-K, 36112-K, 36113-K.)

INFORMATION FILED: March 16, 1948, Eastern District of Washington, against the Continental Baking Co., a corporation, Spokane, Wash., and Curtis C. Haggerty and Louie C. Wuerch, manager and production superintendent, respectively.

ALLEGED SHIPMENT: On or about August 11 and September 10, 11, 15, and 16, 1947, from the State of Washington into the State of Idaho.

LABEL, IN PART: "Sliced White Wonder Bread Net Weight 1½ Lbs. [or "1 Lb."]."

NATURE OF CHARGE: Misbranding, Section 403 (e) (2), the product failed to bear a label containing an accurate statement of the quantity of the contents, since the loaves of bread weighed less than 1 pound or 1½ pounds net; and (one lot), Section 403 (k), the product contained a chemical preservative, a salt of propionic acid, and failed to bear a label stating that fact.

DISPOSITION: March 30, 1948. Pleas of guilty having been entered on behalf of the defendants, the corporation was fined \$700 and costs and each of the individual defendants was fined \$70.

13015. Adulteration and misbranding of soybean toast and bread. U. S. v. Harmon L. Vaughn (Bill Baker's Ojai Bakery). Plea of nolo contendere. Fine, \$250. (F. D. C. No. 24051. Sample Nos. 44900-H, 71803-H, 71805-H, 71806-H.)

INFORMATION FILED: January 28, 1947, Southern District of California, against Harmon L. Vaughn, trading as Bill Baker's Ojai Bakery, at Ojai, Calif.

ALLEGED SHIPMENT: On or about June 24 and 26, 1947, from the State of California into the States of Oklahoma, Washington, and Arizona.

LABEL, IN PART: (Wrappers) "Bill Baker's Original Soya Bean Bread * * * Net Weight 1 Pound," or "Bill Baker's Original Soy Bean Toast * * * Net Weight 6 Ozs."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the products consisted in part of filthy substances by reason of the presence of insects, insect parts, and rodent hairs; and, Section 402 (a) (4), they had been prepared and packed under insanitary conditions whereby they may have become contaminated with filth.

Misbranding, Section 403 (a), the statement "Net Weight 6 Ozs." borne on the wrappers containing the toast was false and misleading, in that the wrappers contained less than 6 ounces of the product; Section 403 (e) (2), the toast failed to bear an accurate statement of the quantity of the contents.

DISPOSITION: February 24, 1948. A plea of nolo contendere having been entered, the defendant was fined \$250.

13016. Adulteration of cakes and cookies. U. S. v. Alice Richardson (Mrs. Richardson's Cookies). Plea of nolo contendere. Imposition of sentence suspended for 1 year. (F. D. C. No. 20207. Sample Nos. 31186-H to 31192-H, incl., 32281-H 32282-H, 32505-H to 32509-H, incl.)

INFORMATION FILED: January 20, 1947, District of Arizona, against Alice Richardson, trading as Mrs. Richardson's Cookies, Phoenix, Ariz.

ALLEGED SHIPMENT: Between the approximate dates of November 2 and December 21, 1945, from the State of Arizona into the States of New Mexico and Texas.

LABEL, IN PART: "Mrs. Richardson's Home-Made Cookies Vanilla [or "Oatmeal," "Lemon," "Sugar," "Raisin," "Nut," or "Two-Tone"]," "Mrs. Richardson's Home-Made Cakes," or Mrs. Richardson's Home-Made Cookies Coconut Contains: * * * imitation cocoanut."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the products consisted in part of filthy substances by reason of the presence of insect fragments, rodent hairs, insects, and rodent hair fragments; and, Section 402 (a) (4), they had been prepared, packed, and held under insanitary conditions whereby they may have become contaminated with filth.

Misbranding (coconut cookies), Section 403 (i) (2), the product was fabricated from two or more ingredients and its label failed to bear the common or usual name of each such ingredient, since the product contained corn flakes, which was declared as imitation coconut; and (Home-Made Cakes), Section 403 (k), the product contained a chemical preservative, a propionate, and it failed to bear labeling stating that fact.

DISPOSITION: April 14, 1947. A plea of nolo contendere having been entered, imposition of sentence was suspended for 1 year.

13017. Adulteration of cookies. U. S. v. 78 Cases, etc. (F. D. C. No. 24438. Sample Nos. 24333-K to 24338-K, incl.)

LIBEL FILED: February 13, 1948, District of Minnesota.

ALLEGED SHIPMENT: On or about January 6 and 21, 1948, by the Johnson Biscuit Co., from Sioux City, Iowa.

PRODUCT: 163 cases, each containing 12 9-ounce packages, of cookies and 266 caddies, each containing 6 pounds, of the product at Minneapolis, Minn.

LABEL, IN PART: "Johnson's Honey Squares [or "Devils Food"]," or "Devils Food," "Iced Devils Cake," "Pinketts," or "Honey Squares."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insect fragments and rodent hair fragments; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: April 21, 1948. Default decree ordering product denatured for use as animal feed or destroyed.

13018. Adulteration of cookies. U. S. v. 5 Cartons, etc. (F. D. C. No. 23978. Sample Nos. 24846-K to 24849-K, incl.)

LIBEL FILED: November 22, 1947, District of Minnesota.

ALLEGED SHIPMENT: On or about October 14, 1947, by the Midwest Biscuit Co., from Burlington, Iowa.

PRODUCT: Cookies. 5 cartons, each containing approximately 14 pounds; 5 cartons, each containing approximately 16¾ pounds; 5 cartons, each containing approximately 17¼ pounds; and 5 cartons, each containing approximately 13¼ pounds, at Duluth, Minn.

LABEL, IN PART: "Cocoa Taffy Bar," "Belmont Sandwich Vanilla [or "Dark"]," or "Excellent."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the products consisted in whole or in part of filthy substances by reason of the presence of insect fragments and rodent hair fragments; and, Section 402 (a) (4), they had been prepared under insanitary conditions whereby they may have become contaminated with filth.

DISPOSITION: March 9, 1948. Default decree ordering products denatured and disposed of as animal feed or destroyed.

13019. Adulteration of wheat wafers. U. S. v. 5 Cases * * * (and 1 other seizure action). (F. D. C. Nos. 24737, 24738. Sample Nos. 4497-K, 4498-K.)

LIBELS FILED: On or about April 28 and 29, 1948, District of Rhode Island.

ALLEGED SHIPMENT: On or about February 26, 1948, by the Venus Baking Co., from Watertown, Mass.

PRODUCT: 27 cases, each containing 12 13-ounce boxes, of wheat wafers at Providence, R. I.

LABEL, IN PART: "Venus Wheat Wafers."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insects, insect parts, and rodent hairs; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: May 18, 1948. Default decrees of condemnation and destruction.

CORN MEAL

13020. Adulteration of corn meal. U. S. v. Bundy Bros. Mill Co. Plea of guilty. Fine, \$150. (F. D. C. No. 24515. Sample Nos. 83396-H, 83406-H, 83407-H.)

INFORMATION FILED: On or about June 21, 1948, Southern District of Indiana, against the Bundy Bros. Mill Co., a partnership, Medora, Ind.

ALLEGED SHIPMENT: On or about June 16 and July 22, 1947, from the State of Indiana into the States of Ohio and Kentucky.

LABEL, IN PART: "Medora Roller Mills Fancy Cream Meal," or "Dorsel's White Corn Meal The Dorsel Co., Newport, Ky. Distributor."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a filthy substance by reason of the presence of rodent excreta, larvae, and insect parts; and (portion), Section 402 (a) (4), it had been prepared and packed under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: July 16, 1948. A plea of guilty having been entered, the defendant was fined \$150.

13021. Adulteration of corn meal. U. S. v. The City Milling Co. Plea of guilty. Fine, \$500. (F. D. C. No. 21997. Sample Nos. 53292-H, 53299-H.)

INFORMATION FILED: March 3, 1947, Eastern District of Tennessee, against the City Milling Co., Newport, Tenn.

ALLEGED SHIPMENT: On or about August 3, 1946, from the State of Tennessee into the State of North Carolina.

LABEL, IN PART: "Snow Flake Table Meal."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a filthy substance by reason of the presence of insects, insect parts, rodent hair fragments, and rodent excreta; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: September 15, 1947. A plea of guilty having been entered, a fine of \$500 was imposed.

13022. Adulteration of corn meal. U. S. v. Ewing Mill Co. Plea of guilty. Fine, \$250. (F. D. C. No. 24100. Sample Nos. 83163-H, 83183-H.)

INFORMATION FILED: May 5, 1948, Southern District of Indiana.

ALLEGED SHIPMENT: On or about August 12, 1947, by the Ewing Mill Co., a partnership, Brownstown and Ewing, Ind., from the State of Indiana into the State of Kentucky.

LABEL, IN PART: "Ewing Mills Pearl Meal."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a filthy substance by reason of the presence of rodent excreta fragments.

DISPOSITION: July 16, 1948. A plea of guilty having been entered, the defendant was fined \$250.

13023. Adulteration of corn meal. U. S. v. Home Stores, Inc. Plea of nolo contendere. Fine, \$400. (F. D. C. No. 21998. Sample No. 53278-H.)

INFORMATION FILED: February 27, 1947, Eastern District of Tennessee, against Home Stores, Inc., Chattanooga, Tenn.

ALLEGED SHIPMENT: On or about July 25, 1946, from the State of Tennessee into the State of Georgia.

LABEL, IN PART: "Honeymoon Supreme Quality Old Fashioned Corn Meal Fully Guaranteed by Honeymoon Mills Chattanooga & Knoxville, Tenn."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a filthy substance by reason of the presence of rodent excreta.

DISPOSITION: May 6, 1947. A plea of nolo contendere having been entered, the defendant was fined \$400.

13024. Adulteration of corn meal. U. S. v. A. J. Seibert Co., Inc. Plea of guilty. Fine, \$1,000 and costs. (F. D. C. No. 24526. Sample No. 83420-H.)

INFORMATION FILED: March 29, 1948, Eastern District of Kentucky, against the A. J. Seibert Co., Inc., Corbin, Ky.

ALLEGED SHIPMENT: On or about July 12, 1947, from the State of Kentucky into the State of Tennessee.

LABEL, IN PART: "Riverside Mills * * * Indian Head White Corn Meal Murphy Grain & Milling Co. Owensboro, Kentucky."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in part of a filthy substance by reason of the presence of rodent excreta fragments.

DISPOSITION: May 10, 1948. A plea of guilty having been entered, the court imposed a fine of \$1,000 and costs.

13025. Adulteration of corn meal. U. S. v. 365 Bags, etc. (F. D. C. No. 23773. Sample No. 19011-K.)

LIBEL FILED: September 24, 1947, Southern District of West Virginia.

ALLEGED SHIPMENT: On or about September 11, 1947, by the J. I. Gates Milling Co., from Columbus, Ohio.

PRODUCT: 365 25-pound bags and 120 10-pound bags of corn meal at Huntington, W. Va.

LABEL, IN PART: "Well-Maid White Corn Meal."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent excreta pellet fragments.

DISPOSITION: October 28, 1947. The J. I. Gates Milling Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond to be disposed of in compliance with the law, under the supervision of the Food and Drug Administration.

13026. Adulteration of corn meal. U. S. v. 57 Bags * * *. (F. D. C. No. 23777. Sample No. 19018-K.)

LIBEL FILED: September 30, 1947, Southern District of West Virginia.

ALLEGED SHIPMENT: On or about September 5, 1947, by the Early & Daniel Co., from Cincinnati, Ohio.

PRODUCT: 57 25-pound bags of corn meal at Huntington, W. Va.

LABEL, IN PART: "Tuxedo Whole Corn Meal White."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent excreta fragments and insects; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: November 19, 1947. Default decree of condemnation. The product was ordered delivered to a charitable institution, for use as animal feed.

13027. Adulteration of corn meal. U. S. v. 6 Bags * * *. (F. D. C. No. 23788. Sample No. 18705-K.)

LIBEL FILED: October 2, 1947, Middle District of Tennessee.

ALLEGED SHIPMENT: On or about September 13, 1947, by the Hopkinsville Milling Co., from Hopkinsville, Ky.

PRODUCT: 6 100-pound bags of corn meal at Nashville, Tenn.

LABEL, IN PART: "Enriched * * * Cream Meal."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent excreta, rodent hair fragments, insect fragments, and larvae.

DISPOSITION: January 9, 1948. Default decree ordering product delivered to an institution, for use as hog feed.

FLOUR

Nos. 13028 to 13034 report actions involving flour that was insect- or rodent-infested, or both. (In those cases in which the time of contamination was known, that fact is stated in the notice of judgment.) The flour reported in No. 13035 failed to meet the standard for enriched flour.

13028. Adulteration of flour. U. S. v. Crowther Bros. Milling Co., Edward N. Crowther, and Norman W. Crowther. Pleas of nolo contendere. Fine, \$100. (F. D. C. No. 20931. Sample Nos. 25577-H to 25579-H, incl., 25594-H, 25595-H, 47244-H.)

INFORMATION FILED: January 6, 1947, District of Idaho, against the Crowther Bros. Milling Co., a corporation, Malad City, Idaho, and Edward N. Crowther and Norman W. Crowther.

ALLEGED SHIPMENT: Between the approximate dates of March 22 and May 20, 1946, from the State of Idaho into the State of Utah.

LABEL, IN PART: "Big C Special Patent," "Golden Rod Hard Wheat [or "Unbleached Macaroni"] Flour," or "White Swan."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a filthy substance by reason of the presence of insect parts, animal hairs similar to rodent hairs, and rodent hairs; and, Section 402 (a) (4), it had been prepared, packed, and held under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: October 13, 1947. Pleas of nolo contendere having been entered, a fine of \$100 was imposed collectively against the defendants.

13029. Adulteration of flour. U. S. v. Minot Flour Mill Co., a corporation, and William H. Dunnell. Plea of guilty on behalf of the corporation; fine, \$900. Plea of nolo contendere by William H. Dunnell; fine, \$100. (F. D. C. No. 24055. Sample Nos. 87578-H, 87616-H to 87619-H, incl., 87723-H.)

INFORMATION FILED: December 8, 1947, District of North Dakota, against the Minot Flour Mill Co., Minot, N. Dak., and William H. Dunnell, president.

ALLEGED SHIPMENT: On or about June 18, 19, and 21, 1947, from the State of North Dakota into the State of New York, Connecticut, and New Jersey.

LABEL, IN PART: "White Cross Patent Flour Glasgow Flour Mill Co. Glasgow, Mont.," "Snow White," "Wizard Extra High Protein," "Spring Wheat Patent," "Expander * * * Minot Flour Mill Co.," or "Walker's * * * Locomotive Patent Flour * * * Milled Expressly for H. R. Walker & Sons, Passaic, N. J."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a filthy substance by reason of the presence of insects, insect fragments, rodent hairs, rodent hair fragments, feather fragments, and cat hair; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: June 15, 1948. A plea of guilty having been entered on behalf of the corporation, and a plea of nolo contendere having been entered by William H. Dunnell, the court imposed fines of \$900 against the corporation and \$100 against Mr. Dunnell.

13030. Adulteration of flour. U. S. v. Van Dusen Harrington Co. (King Midas Flour Mills), and Andrew N. Henjum. Pleas of guilty. Fine, \$450. (F. D. C. No. 21535. Sample Nos. 19785-H, 50995-H, 51269-H, 51270-H.)

INFORMATION FILED: February 4, 1947, District of Minnesota, against the Van Dusen Harrington Co., a corporation, trading as the King Midas Flour Mills, at Minneapolis, Minn., and Andrew N. Henjum, superintendent of the Minneapolis plant.

ALLEGED SHIPMENT: On or about July 22 and 25, 1946, from the State of Minnesota into the State of Wisconsin.

LABEL, IN PART: "Enriched King Midas Flour."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a filthy substance by reason of the presence of insects, insect fragments, and rodent hair fragments; and, Section 402 (a) (4), it had been prepared and packed under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: September 22, 1947. Pleas of guilty having been entered, a fine of \$450 was imposed against the defendants jointly.

13031. Adulteration of flour. U. S. v. Montana Flour Mills Co. Plea of nolo contendere. Fine, \$2,500 and costs. (F. D. C. No. 24538. Sample Nos. 2613-K, 19023-K, 19024-K.)

INFORMATION FILED: April 9, 1948, Northern District of Ohio, against the Montana Flour Mills Co., Cleveland, Ohio.

ALLEGED SHIPMENT: On or about September 5, 10, and 16, 1947, from the State of Ohio into the State of West Virginia and the District of Columbia.

LABEL, IN PART: "Isis Flour," or "Sapphire Short Patent Flour."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in part of a filthy substance by reason of the presence of insect fragments and rodent hair fragments; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: April 30, 1948. A plea of nolo contendere having been entered, the court imposed a fine of \$2,500 and costs.

13032. Adulteration of flour. U. S. v. Shawnee Milling Co. (Okeene Milling Co.). Plea of nolo contendere. Fine, \$150. (F. D. C. No. 23620. Sample Nos. 50516-H, 86601-H, 86603-H.)

INFORMATION FILED: November 10, 1947, Western District of Oklahoma, against the Shawnee Milling Co., a corporation, trading as the Okeene Milling Co., Okeene, Okla.

ALLEGED SHIPMENT: Between the approximate dates of February 17 and March 29, 1947, from the State of Oklahoma into the States of Texas and Arkansas.

LABEL, IN PART: "Okeene Bakers," or "Golden Sheaf * * * Phosphated Okeene Flour."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a filthy substance by reason of the presence of insect fragments and insects; and (portion), Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: December 17, 1947. A plea of nolo contendere having been entered, a fine of \$150 was imposed.

13033. Adulteration of flour. U. S. v. 49 Bags * * *. (F. D. C. No. 24657. Sample No. 18559-K.)

LIBEL FILED: May 28, 1948, Southern District of Ohio.

ALLEGED SHIPMENT: On or about April 2, 1948, by the Eagle Roller Mill Co., from New Ulm, Minn.

PRODUCT: 49 100-pound bags of flour at Mt. Healthy, Ohio.

LABEL, IN PART: "Challenger Flour Bleached."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insect parts; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: June 23, 1948. The C. C. Groff Milling Co., Mt. Healthy, Ohio, claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be denatured for use as stock feed, under the supervision of the Food and Drug Administration.

13034. Adulteration of flour. U. S. v. 10 Bags, etc. (F. D. C. No. 24490. Sample Nos. 30836-K, 30837-K.)

LIBEL FILED: March 17, 1948, Southern District of California.

ALLEGED SHIPMENT: On or about January 30, 1948, by the Sheridan Flouring Mills, Inc., from Sheridan, Wyo.

PRODUCT: 10 100-pound bags and 58 50-pound bags of flour at Whittier, Calif.

LABEL, IN PART: "Diamond D Flour," or "Best Out West Enriched Flour."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent hair fragments.

DISPOSITION: May 4, 1948. Default decree of condemnation and destruction.

13035. Adulteration and misbranding of enriched flour. U. S. v. Russell-Miller Milling Co. Plea of nolo contendere. Fine, \$500. (F. D. C. No. 24059. Sample Nos. 76359-H, 76450-H.)

INFORMATION FILED: February 25, 1948, Northern District of Texas, against the Russell-Miller Milling Co., a corporation, Dallas, Tex.

ALLEGED SHIPMENT: On or about February 13 and March 22, 1947, from the State of Texas into the States of Louisiana and Florida.

LABEL, IN PART: "Enriched Stanard's Reliable Flour," or "American Beauty Self-Rising Enriched Flour."

NATURE OF CHARGE: Adulteration, Section 402 (b) (1), valuable constituents of the article had been in part omitted and abstracted.

Misbranding, Section 403 (g) (1), the product failed to conform to the definition and standard of identity for enriched flour, since one shipment contained per pound less than 2 milligrams of thiamine and less than 16 milligrams of niacin and the other shipment contained per pound less than 2 milligrams of thiamine and less than 1.2 milligrams of riboflavin. (The standard requires a minimum of 2 milligrams of thiamine (vitamin B₁), 16 milligrams of niacin or niacin amide, and 1.2 milligrams of riboflavin per pound.) Further misbranding, Section 403 (a), the statements, "8 Ozs. Enriched flour contain not less than the following proportions of the minimum daily requirements of: Thiamine 100% * * * and 8 Mg. of Niacin" and "8 Oz. enriched self-rising flour contain not less than the following proportions of the minimum daily requirements of: Thiamine 100%, Riboflavin 30%," borne on the labels of the respective lots, were false and misleading, since the former contained less thiamine and niacin and the latter contained less thiamine and riboflavin than indicated.

DISPOSITION: February 27, 1948. A plea of nolo contendere having been entered, a fine of \$500 was imposed.

MACARONI AND NOODLE PRODUCTS*

13036. Alleged adulteration of spaghetti and macaroni. U. S. v. 150 Cartons, etc. Tried to the court. Verdict for claimant. Verdict sustained on Government's appeal to circuit court of appeals. Government's request for certiorari to United States Supreme Court denied. (F. D. C. No. 14857. Sample Nos. 73785-F to 73787-F, incl.)

LIBEL FILED: February 27, 1944; amended September 28, 1945, District of Arizona.

ALLEGED SHIPMENT: On or about February 13, 1943, from Denver, Colo.

PRODUCT: 150 10-pound cartons of spaghetti and 25 10-pound cartons of macaroni at Douglas, Ariz., in possession of the Phelps Dodge Mercantile Co.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insect fragments, rodent hairs, and rodent excreta; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: October 22, 1945. The Phelps Dodge Mercantile Co. having filed exceptions to the libel, the district court allowed the exceptions and ordered the libel dismissed and the product returned to the claimant. The Government having appealed to the circuit court of appeals, the circuit court of appeals, on September 25, 1946, handed down the following decision sustaining the lower court:

MATHEWS, Circuit Judge: "On an amended libel of information filed on September 28, 1945, appellant, the United States, proceeded against 175 cartons

*See also No. 13176.

of food (150 cartons of spaghetti and 25 cartons of macaroni) in possession of appellee, Phelps Dodge Mercantile Company, in the District of Arizona. The amended libel, hereafter called the libel, prayed that the food be seized and condemned. The food was seized. Appellee excepted to the sufficiency of the libel. The exception was sustained, and a decree was entered dismissing the libel and directing that the food be released to appellee. From that decree this appeal is prosecuted. The question is whether the libel stated facts sufficient to warrant condemnation of the food.

"Condemnation was sought under § 304 (a) of the Federal Food, Drug, and Cosmetic Act,¹ 21 U. S. C. A. § 334 (a), which provides: 'Any article of food * * * that is adulterated² * * * when introduced into or while in interstate commerce³ * * * shall be liable to be proceeded against while in interstate commerce, or at any time thereafter, on libel of information and condemned in any district court of the United States within the jurisdiction of which the article is found * * *'

"The libel stated that the food was shipped in interstate commerce from Denver, Colorado, to Douglas, Arizona, in 1943—75 cartons on February 13, 1943, and 100 cartons on June 18, 1943. The libel further stated: 'That said food * * * is [on September 28, 1945] adulterated within the meaning of 21 U. S. C. A. as follows:

342 (a) (3) in that it consists wholly or in part of a filthy substance⁴ by reason of the presence therein of insect fragments, rodent hairs, and rodent excreta;

342 (a) (4) in that it has been held under insanitary conditions whereby it has been contaminated with filth,⁵ while held in the original packages by [appellee] at [appellee's] warehouse in Douglas, Arizona.

"Thus the libel stated, in substance and effect, that on September 28, 1945—more than two years after it was shipped in interstate commerce—the food was adulterated. The libel did not state that the food was adulterated when introduced into or while in interstate commerce.⁶ Instead, the libel stated, in substance and effect, that the food was adulterated while held in original packages by appellee at its warehouse in Douglas, Arizona. Thus it appeared that the adulteration of the food occurred after it ended its interstate journey and came to rest at appellee's warehouse.⁷

"Appellant contends that the fact that the food was adulterated while held in original packages was sufficient to warrant its condemnation. We do not agree. As shown above, § 304 (a) of the Federal Food, Drug and Cosmetic Act, 21 U. S. C. A. § 334 (a), under which this proceeding was brought, provides for the condemnation of 'Any article of food * * * that is adulterated * * * when introduced into or while in interstate commerce.' It says nothing about original packages. The terms 'interstate commerce' and 'original packages' are not synonymous. Articles may be in interstate commerce without being in original packages. They may be in original packages without being in interstate commerce. They may be in both interstate commerce and original packages and, if in both, may cease to be in interstate commerce and yet remain in original packages.⁸ Hence the fact that the food was

¹ Act of June 25, 1938, c. 675, 52 Stat. 1040, as amended.

² Section 402 of the Federal Food, Drug and Cosmetic Act, 21 U. S. C. A. § 342, provides: "A food shall be deemed to be adulterated

"(a) * * * (3) if it consists in whole or in part of any filthy, putrid, or decomposed substance * * * or (4) if it has been prepared, packed, or held under insanitary conditions whereby it may have become contaminated with filth * * *"

³ Section 201 (b) of the Federal Food, Drug and Cosmetic Act, 21 U. S. C. A., § 321 (b), provides: "The term 'interstate commerce' means (1) commerce between any State or Territory and any place outside thereof, and (2) commerce within the District of Columbia or within any other Territory not organized with a legislative body."

⁴ See § 402 (a) (3) of the Federal Food, Drug and Cosmetic Act, 21 U. S. C. A., § 342 (a) (3).

⁵ See § 402 (a) (4) of the Federal Food, Drug and Cosmetic Act, 21 U. S. C. A., § 342 (a) (4).

⁶ See § 304 (a) of the Federal Food, Drug and Cosmetic Act, 21 U. S. C. A., § 334 (a).

⁷ Cf. *American Steel & Wire Co. v. Speed*, 192 U. S. 500; *General Oil Co. v. Crain*, 209 U. S. 211; *Bacon v. Illinois*, 227 U. S. 504; *Texas Co. v. Brown*, 258 U. S. 466; *Sonneborn v. Cureton*, 262 U. S. 506; *Gregg Dyeing Co. v. Query*, 286 U. S. 472; *Nashville, C. & St. L. R. Co. v. Wallace*, 288 U. S. 249; *Louis K. Liggett Co. v. Lee*, 288 U. S. 517; *Edelman v. Boeing Air Transport*, 289 U. S. 249; *Southern Pae. Co. v. Gallagher*, 306 U. S. 167; *Walling v. Jacksonville Paper Co.*, 317 U. S. 564; *Higgins v. Carr Bros. Co.*, 317 U. S. 572.

⁸ Cf. *Woodruff v. Parham*, 8 Wall. 123; *Hinson v. Lott*, 8 Wall. 148; *American Steel & Wire Co. v. Speed*, *supra*; *Baceus v. Louisiana*, 232 U. S. 334; *Wagner v. Covington*, 251 U. S. 95; *Sonneborn v. Cureton*, *supra*; *Wiloil Corp. v. Pennsylvania*, 294 U. S. 169; *Whitfield v. Ohio*, 297 U. S. 431.

adulterated while held in original packages did not show that it was adulterated when introduced into or while in interstate commerce.

"Appellant cites, in support of its contention, § 10 of the Food and Drug Act of 1906,⁹ 21 U. S. C. A. § 14, which provided that 'any article of food * * * that is adulterated * * * and is being transported from one State * * * to another for sale, or, having been transported, remains * * * in original unbroken packages * * * shall be liable to be proceeded against * * * and seized for confiscation by a process of libel for condemnation.' This proceeding was not brought, and could not have been brought, under § 10 of the Food and Drug Act of 1906, 21 U. S. C. A. § 14, for that section was repealed¹⁰ long before this proceeding was brought. As stated above, this proceeding was brought under § 304 (a) of the Federal Food, Drug and Cosmetic Act, 21 U. S. C. A. § 334 (a). The quoted provision of § 10 of the Food and Drug Act of 1906, 21 U. S. C. § 14, is not in § 304 (a) of the Federal Food, Drug and Cosmetic Act, 21 U. S. C. A. § 334 (a), and should not be read into it by construction.

"Whether Congress could have provided in § 304 (a) of the Federal Food, Drug and Cosmetic Act, 21 U. S. C. A. § 334 (a), for the condemnation of any article of food that is adulterated while held in original packages after being transported in interstate commerce need not be considered, since Congress did not, in fact so provide.

"Appellant says that administrative officers charged with the duty of enforcing § 304 (a) of the Federal Food, Drug and Cosmetic Act, 21 U. S. C. A. § 334 (a), have interpreted it as providing for the condemnation of any article of food that is adulterated while held in original packages after being transported in interstate commerce. Being clearly erroneous, that interpretation need not and should not be followed by the courts.¹¹

"Appellant has cited no court decision supporting its contention, and we have found none. We conclude, as did the court below, that the libel did not state facts sufficient to warrant condemnation of the food.

"Decree affirmed."

On February 10, 1947, the Government's petition for the writ of certiorari to the United States Supreme Court was denied.

13037. Adulteration and misbranding of spaghetti and macaroni. U. S. v. California Vulcan Macaroni Co. and Augustin Bacigalupi. Pleas of nolo contendere. Total fines \$2,250. (F. D. C. No. 24509. Sample Nos. 75335-H, 75729-H, 32006-K.)

INFORMATION FILED: March 18, 1948, Northern District of California, against the California Vulcan Macaroni Co., a corporation, San Francisco, Calif., and Augustin Bacigalupi, president.

ALLEGED VIOLATIONS: The defendants were charged with giving to various firms false guaranties, as follows: On or about February 2, 1944, the defendants gave to Theo H. Davies & Co., San Francisco, Calif., a guaranty to the effect that any food, drug, or cosmetic sold or delivered by the defendants to the holder of the guaranty would comply with the Federal Food, Drug, and Cosmetic Act. On or about May 6 and July 15, 1947, respectively, the defendants gave similar guaranties to Juillard Fancy Foods and Alexander & Baldwin, Ltd., of San Francisco, Calif. On or about April 10, and May 6, 1947, respectively, the defendants sold and delivered to Theo H. Davies & Co., and Juillard Fancy Foods, quantities of spaghetti which was adulterated; and on or about September 19, 1947, the defendants sold and delivered to Alexander & Baldwin, Ltd., a quantity of macaroni which was misbranded.

The products so sold, delivered, and guarantied by the defendants were shipped by the holders of the respective guaranties from the State of California to the Territory of Hawaii on or about April 17, May 13, and October 23, 1947.

⁹ Act of June 30, 1906, c. 3915, 34 Stat. 768, as amended.

¹⁰ See § 902 (a) of the Federal Food, Drug and Cosmetic Act, 52 Stat. 1059, and notes appended to 21 U. S. C. A., §§ 14 and 392.

¹¹ Cf. *United States v. Tanner*, 147 U. S. 661; *United States v. Missouri Pac. R. Co.*, 278 U. S. 269; *Texas & Pac. R. Co. v. United States*, 289 U. S. 627; *Koshland v. Helvering*, 298 U. S. 441; *Estate of Sanford v. Commissioner*, 308 U. S. 39; *Neuberger v. Commissioner*, 311 U. S. 83; *Interstate Commerce Commission v. Railway Labor Executives Assn.*, 315 U. S. 373; *Jewell Ridge Coal Corp. v. Local No. 6167*, 325 U. S. 161.

LABEL, IN PART: "Royal Spaghetti Semolina," "Royal Brand * * * Semolina Spaghetтини," or "Royal Vitamin Enriched Ingredients: Semolina, Vitamin B₁, Vitamin B₂, Niacin, Iron pyrophosphate. Macaroni * * * Four ounces when cooked supply the following of adult minimum daily requirements: Vitamin B₁ 50% Vitamin B₂ 15% Iron 32.5% and 4.0 mg. Niacin."

NATURE OF CHARGE: Spaghetti. Adulteration, Section 402 (a) (3), the product consisted in part of a filthy substance by reason of the presence of insect fragments; and, Section 402 (a) (4), it had been prepared and packed under insanitary conditions whereby it may have become contaminated with filth.

Enriched macaroni. Misbranding, Section 403 (g) (1), the product purported to be and was represented as enriched macaroni, and it failed to conform to the definition and standard of identity for enriched macaroni since it contained in each pound less than 4 milligrams of thiamine and less than 13 milligrams of iron; and, Section 403 (a), the label statements "Comparative Food Values of Macaroni and Other Foods Calories Lean steak . . . 950, Potatoes . . . 365, Parsnips . . . 295, Beets . . . 230, Carrots . . . 195, Onions . . . 190, String beans . . . 170, Turnips . . . 160, Cabbage . . . 115, Lettuce . . . 65, Macaroni . . . 1665," were misleading, since the statements represented and suggested that macaroni had the highest food value of any of the foods mentioned, whereas macaroni does not have the highest food value of any of the foods mentioned. Further misbranding, Section 403 (a), the label statement "Four ounces when cooked supply the following of adult minimum daily requirements: Vitamin B₁ 50% Vitamin B₂ 15% Iron 32.5% and 4.0 mg. Niacin" was false and misleading, since four ounces of the article would not supply the stated proportions of the minimum daily requirements of vitamin B₁, vitamin B₂, and iron, and would not supply four milligrams of niacin.

DISPOSITION: April 14, 1948. Pleas of nolo contendere having been entered, the defendants were each fined \$1,125, a total of \$2,250.

13038. Adulteration of macaroni. U. S. v. B. Filippone & Co., a corporation, and John B. Filippone. Pleas of guilty. Corporation fined \$1,500; individual fined \$150. (F. D. C. No. 24072. Sample Nos. 87572-H, 87573-H, 87745-H, 87775-H.)

INFORMATION FILED: January 13, 1948, District of New Jersey, against B. Filippone & Co., Passaic, N. J., and John B. Filippone, secretary.

ALLEGED SHIPMENT: On or about June 10, 1947, from the State of New Jersey into the State of New York.

LABEL, IN PART: "‘La Perla’ Macaroni Products," or "Puccini Brand Macaroni"; (on some packages) "Manufactured by National Macaroni Mfg. Co. Garfield, N. J."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a filthy substance by reason of the presence of rodent hair fragments and insect fragments; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: March 3, 1948. Pleas of guilty having been entered, the corporation was fined \$1,500 and the individual defendant was fined \$150.

13039. Adulteration and misbranding of macaroni and noodle products. U. S. v. V. Viviano & Brothers Macaroni Manufacturing Co., Frank P. Viviano, and Peter R. Viviano. Pleas of nolo contendere. Fine of \$300 against company. Individual defendants ordered discharged. (F. D. C. No. 24078. Sample Nos. 93899-H, 93900-H, 93941-H to 93945-H, incl., 94163-H, 28402-K.)

INFORMATION FILED: January 22, 1948, Eastern District of Missouri, against V. Viviano & Brothers Macaroni Manufacturing Co., a corporation, St. Louis, Mo., Frank P. Viviano, president, and Peter R. Viviano, vice-president.

ALLEGED SHIPMENT: On or about August 8, 12, 15, and 20, 1947, from the State of Missouri into the States of Colorado, Arkansas, Tennessee, and Illinois.

LABEL, IN PART: "De Luxe Elbow Macaroni," "Belmont Brand * * * Elbow Macaroni," "Gragnano De Luxe Style * * * Mezzani," "Pure Alimentary Paste Genova Style," "Viviano * * * Baby Pastina," or "Gragnano De Luxe Style * * * Magliettine Elbow Macaroni [or "Spaghetti"] "CAP Brand Med. Egg Noodle."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the articles consisted in part of filthy substances by reason of the presence of insects, insect parts and fragments, a rodent hair, and rodent hair fragments; and, Section 402 (a) (4), they had been prepared and packed under insanitary conditions whereby they may have become contaminated with filth.

Misbranding, Section 403 (e) (2), a portion of the elbow macaroni failed to bear a label containing an accurate statement of the quantity of the contents, since the cartons bore the statement "Net Weight 7 Ounces," whereas they contained less than 7 ounces of the food.

DISPOSITION: May 20, 1948. Pleas of nolo contendere having been entered, the court imposed a fine of \$50 on each of the 6 counts of the information against the company and ordered the individual defendants to stand discharged.

13040. Adulteration of macaroni and noodle products. U. S. v. Frank J. Kawakami (Denver Noodle Factory). Plea of guilty. Fine, \$10. (F. D. C. No. 23612. Sample Nos. 82646-H to 82649-H, incl., 91980-H.)

INFORMATION FILED: November 10, 1947, District of Colorado, against Frank J. Kawakami, trading as the Denver Noodle Factory, at Denver, Colo.

ALLEGED SHIPMENT: On or about February 18 and May 23, 1947, from the State of Colorado into the States of Wyoming and Washington.

LABEL, IN PART: "Plain Chinese Noodles," "Chop-Suey Noodle," or "Oriental Alimentary Paste."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in part of a filthy substance by reason of the presence of insect parts, rodent hairs, and animal hairs resembling rodent hairs; and, Section 402 (a) (4), it had been prepared, packed, and held under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: May 3, 1948. A plea of guilty having been entered, the court imposed a fine of \$5 on each of the two counts of the information.

13041. Adulteration and misbranding of egg noodles. U. S. v. 93 Cases, etc. (F. D. C. No. 22282. Sample Nos. 76070-H to 76076-H, incl.)

LIBEL FILED: February 11, 1947, Eastern District of New York.

ALLEGED SHIPMENT: On or about December 30 and 31, 1946, by the Prince Macaroni Manufacturing Co., from Lowell, Mass.

PRODUCT: 475 cases, each containing 12 1-pound packages, of egg noodles at Maspeth, Long Island, N. Y.

LABEL, IN PART: (Portions) "Prince Pure Egg Noodles [or "Delicious Pure Egg Noodles"]," or "egg flakes."

NATURE OF CHARGE: Adulteration, Section 402 (b) (1), a valuable constituent, egg or egg yolk, had been in whole or in part omitted; and, Section 403 (g) (1), the article failed to conform to the definition and standard of identity for noodles, since the total solids of the product contained less than 5.5 percent by weight of the solids of egg or egg yolk.

DISPOSITION: April 9, 1948. The Prince Macaroni Manufacturing Co., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be denatured under the supervision of the Food and Drug Administration.

13042. Adulteration of egg noodles. U. S. v. 7 Cases, etc. (F. D. C. No. 24594. Sample Nos. 24498-K to 24500-K, incl.)

LIBEL FILED: April 9, 1948, Northern District of Iowa.

ALLEGED SHIPMENT: On or about February 19, 1948, by F. W. Brice & Son, from Omaha, Nebr.

PRODUCT: 22 cases, each containing 12 packages, of egg noodles at Sioux City, Iowa.

LABEL, IN PART: "Mrs. Brice's Egg Noodles Broad [or "Medium," or "Fine"] Net Weight 12 Ounces."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insect fragments and rodent hair fragments; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: May 11, 1948. Default decree of condemnation and destruction.

13043. Misbranding of spaghetti. U. S. v. 700 Cases, etc. (F. D. C. No. 22789. Sample Nos. 63018-H, 63019-H.)

LIBEL FILED: April 1, 1947, Territory of Hawaii.

ALLEGED SHIPMENT: On or about February 10, 1947, by American Factors, Ltd., San Francisco, Calif.

PRODUCT: 700 cases, each containing 24 8-ounce packages, and 200 cases, each containing 48 8-ounce packages, of spaghetti at Honolulu, T. H.

LABEL, IN PART: "Hunts Fontana Brand Semolina Spaghetti * * * Fontana Food Products Company, South San Francisco, California."

NATURE OF CHARGE: Misbranding, Section 403 (d), the container of the article was so filled as to be misleading, since the article in the 700 cases occupied only about 61 percent and that in the 200 cases occupied only 58 percent, of the volume of the packages.

DISPOSITION: August 1, 1947. Hunt Foods, Inc. having appeared as claimant, judgment of condemnation was entered and the product was ordered released under bond to be disposed of in compliance with the law, under the supervision of the Food and Drug Administration. On February 25, 1948, the product was utilized as hog feed.

MISCELLANEOUS CEREAL AND CEREAL PRODUCT

13044. Adulteration of popcorn. U. S. v. Milton Sigg Popcorn Co. Plea of nolo contendere. Fine, \$100 and costs. (F. D. C. No. 22102. Sample Nos. 8902-H, 51053-H.)

INFORMATION FILED: August 18, 1947, Northern District of Ohio, against the Milton Sigg Popcorn Co., a partnership, Napoleon, Ohio.

ALLEGED SHIPMENT: On or about January 25 and February 6, 1946, from the State of Ohio into the States of New York and Minnesota.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a filthy substance by reason of the presence of rodent excreta, rodent hairs, and rodent-gnawed kernels; and, Section 402 (a) (4), it had been prepared, packed, and held under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: August 20, 1947. A plea of nolo contendere having been entered, the defendant was fined \$100 on each of the two counts, plus costs. The fine imposed on the second count was suspended.

13045. Adulteration of popcorn. U. S. v. 331 Bags * * *. (F. D. C. No. 16170. Sample No. 29161-H.)

LIBEL FILED: May 11, 1945, Northern District of California.

ALLEGED SHIPMENT: On or about March 20, 1945, by Arch Quirk, from Odebolt, Iowa.

PRODUCT: 331 100-pound bags of popcorn at Oakland, Calif.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent excreta and rodent-gnawed kernels.

DISPOSITION: May 17, 1945. J. Ray Fry and Associates having appeared as claimant, judgment of condemnation was entered and the product was ordered released under bond to be brought into compliance with the law, under the supervision of the Food and Drug Administration.

13046. Adulteration of popover mix. U. S. v. 8 Cases * * *. (F. D. C. No. 24306. Sample No. 9277-K.)

LIBEL FILED: January 20, 1948, District of New Jersey.

ALLEGED SHIPMENT: On or about November 26, 1947, by the Cramer Products Co., from New York, N. Y.

PRODUCT: 8 cases, each containing 24 10-ounce boxes, of popover mix at Passaic, N. J.

LABEL, IN PART: "Joy Popover Mix * * *."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of beetles and larvae.

DISPOSITION: April 5, 1948. Default decree of condemnation and destruction.

CHOCOLATE AND RELATED PRODUCTS

CANDY

13047. Adulteration of candy. U. S. v. Schuler Chocolates, Inc., and William C. Schuler. Pleas of guilty. Fines of \$1,500 against the corporation and \$500 against the individual defendant. (F. D. C. No. 24094. Sample Nos. 22251-K, 24031-K to 24033-K, incl., 24037-K, 24038-K, 36219-K.)

INFORMATION FILED: March 1, 1948, District of Minnesota, against Schuler Chocolates, Inc., Winona, Minn., and William C. Schuler, president.

ALLEGED SHIPMENT: On or about October 9, 14, 17, 23, and 31, 1947, from the State of Minnesota into the States of Iowa, Montana, and Louisiana.

LABEL, IN PART: "Cherry Hill * * * Cherry Cream Bar," "6# Vanilla Fudge Schuler Chocolates," "Cherry Hi-Ball," or "Schuler Park Square Chocolates."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a filthy substance by reason of the presence of insects, insect fragments, rodent hair fragments, a rodent excreta pellet fragment, and cat hair fragments; and, Section 402 (a) (4), the product had been prepared and packed under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: June 15, 1948. A plea of guilty having been entered on behalf of the defendants, the court imposed fines of \$1,500 against the corporation and \$500 against the individual.

13048. Adulteration of candy. U. S. v. Sisco-Hamilton Co., Peter Sisco, and Albert Sisco. Pleas of guilty. Fine, \$750 and costs against defendants jointly. (F. D. C. No. 24107. Sample Nos. 2843-K, 2844-K, 18806-K, 36301-K, 36302-K.)

INFORMATION FILED: March 12, 1948, Northern District of Illinois, against the Sisco-Hamilton Co., a corporation, Chicago, Ill., and Peter Sisco and Albert Sisco, president and secretary-treasurer, respectively.

ALLEGED SHIPMENT: On or about August 26 and September 2, 3, and 5, 1947, from the State of Illinois into the States of Kentucky, Washington, and Virginia.

LABEL, IN PART: "Sisco's The Sisco Kid Net Weight 1¾ Oz."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a filthy substance by reason of the presence of insects and insect parts; and, Section 402 (a) (4), it had been prepared and packed under insanitary conditions whereby it may have become contaminated with filth.

Misbranding, Section 403 (e) (2), the product failed to bear a label containing an accurate statement of the quantity of the contents. (The product was short-weight.)

DISPOSITION: April 13, 1948. Pleas of guilty having been entered on behalf of the defendants, a fine of \$750, together with costs, was imposed against the defendants jointly.

13049. Adulteration of candy. U. S. v. The Pearson Candy Co. and John Albert Pearson. Pleas of guilty. Fines of \$650 against company and \$150 against individual. (F. D. C. No. 24085. Sample Nos. 24431-K to 24433-K, incl., 24435-K to 24438-K, incl., 24440-K, 24722-K.)

INFORMATION FILED: February 13, 1948, District of Minnesota, against the Pearson Candy Co., a corporation, Minneapolis, Minn., and John Albert Pearson, president.

ALLEGED SHIPMENT: On or about October 14, 1947, from the State of Minnesota into the State of Iowa.

LABEL, IN PART: "Pearson's Fudge Bar [or "Log Cabin Fudge," "Nut Goodies," "Creme D' Mint," or "Chocolate Dipper"]."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in part of a filthy substance by reason of the presence of insects, insect fragments, insect excreta, and rodent hair fragments; and, Section 402 (a) (4), it had been prepared and packed under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: May 3, 1948. Pleas of guilty having been entered, the court imposed fines of \$650 against the company and \$150 against the individual.

13050. Adulteration of candy. U. S. v. Walter T. Hall & Co., John C. Stoltz, Eugene Wulfekuhler, and Frank Petrovic. Pleas of nolo contendere. Each defendant fined \$100 and costs. (F. D. C. No. 23322. Sample Nos. 77263-H to 77266-H, incl., 77268-H, 77270-H to 77273-H, incl., 77276-H, 77277-H, 77540-H.)

INFORMATION FILED: September 3, 1947, Southern District of Iowa, against Walter T. Hall & Co., a partnership, John C. Stoltz and Eugene Wulfekuhler, partners, and Frank Petrovic, plant superintendent.

ALLEGED SHIPMENT: On or about March 19, 1947, from the State of Ohio into the State of Minnesota.

LABEL, IN PART: "Hall's Confections."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a filthy substance by reason of the presence of insect fragments, mites, rodent hair fragments, feather fragments, an insect, and human hair; and, Section 402 (a) (4), it had been prepared and packed under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: The defendants filed a motion for a bill of particulars requesting that the Government state more specifically wherein and in what manner the product had been prepared and packed under insanitary conditions and the approximate time at which the conditions were alleged to have existed, and requesting portions of the official samples. The motion came on for hearing on September 22, 1947, and after argument, the court ordered the Government to state what insanitary conditions were found in the plant. The court withheld ruling on the request for portions of the official samples, since the defendants had not made application for such samples from the Food and Drug Administrator in a manner provided by law; and the court stated that if such request was not complied with, the defendants might renew the motion. On October 2, 1947, the Government filed its bill of particulars in compliance with the court's order, and on October 16, 1947, the Federal Security Administrator furnished the defendants with portions of the samples. On January 5, 1948, pleas of nolo contendere were entered, and the court imposed fines of \$500 against each of the defendants, plus costs.

13051. Adulteration of candy. U. S. v. Louis S. Horowitz. Plea of guilty. Fine, \$500. (F. D. C. No. 15589. Sample No. 63644-F.)

INFORMATION FILED: January 7, 1946, Northern District of Georgia, against Louis S. Horowitz, plant manager of the Beckham Candy Co.

ALLEGED SHIPMENT: On or about November 16, 17, and 21, 1944, from the State of Georgia into the States of North Carolina and Virginia.

LABEL, IN PART: "Beckham's * * * Coco Meat * * * Beckham Candy Co., Atlanta, Ga."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent hair fragments; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: October 13, 1947. A plea of guilty having been entered by the defendant, the court imposed a fine of \$500.

13052. Adulteration of candy. U. S. v. Sam A. Loniello (Bob White Candy Co.). Plea of nolo contendere. Fine, \$250. (F. D. C. No. 24550. Sample Nos. 24429-K, 24442-K to 24445-K, incl.)

INFORMATION FILED: May 19, 1948, Western District of Wisconsin, against Sam A. Loniello, trading as the Bob White Candy Co., Madison, Wis.

ALLEGED SHIPMENT: On or about September 16 and October 2, 11, and 17, 1947, from the State of Wisconsin into the States of Minnesota, Iowa, and Illinois.

LABEL, IN PART: "Old Fashioned Bitter Sweet Chocolates," or "Delicious Hand Dipped Swiss Creams."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in part of a filthy substance by reason of the presence of insects, insect fragments, rodent hair fragments, feather fragments, a mite, and an unidentified hair fragment; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: May 26, 1948. A plea of nolo contendere having been entered, the court imposed a fine of \$50 on each of the 5 counts of the information.

13053. Misbranding of Rasinut and raisins. U. S. v. Paul C. Manoogian (Paul Brothers). Plea of nolo contendere. Fine, \$150. (F. D. C. No. 22082. Sample Nos. 45249-H, 45250-H, 81950-H.)

INFORMATION FILED: June 11, 1947, Southern District of California, against Paul C. Manoogian, trading as Paul Brothers, Fresno, Calif.

ALLEGED SHIPMENT: On or about December 16 and 23, 1946, from the State of California into the States of New Mexico and Oregon.

LABEL, IN PART: "Rasinut * * * California Seedless Raisins and Roasted Spanish Salted Peanuts," or "Thompson Seedless Raisins."

NATURE OF CHARGE: Misbranding, Section 403 (d), the containers of the articles were so filled as to be misleading, since the Rasinut occupied between 67 and 73 percent and the raisins occupied about 75 percent, of the volume of the packages.

DISPOSITION: January 26, 1948. A plea of nolo contendere having been entered, the defendant was fined \$150.

13054. Adulteration of candy. U. S. v. 45 Boxes * * * (and 1 other seizure action). (F. D. C. Nos. 24500, 24604. Sample Nos. 15491-K, 15530-K.)

LIBELS FILED: March 22 and April 15, 1948, Eastern District of Michigan.

ALLEGED SHIPMENT: On or about March 5 and 12, 1948, by the Rayess Candy Co., from Toledo, Ohio.

PRODUCT: 88 boxes, each containing 24 1¼-ounce pieces, of candy at Detroit, Mich.

LABEL, IN PART: "Rayess Peppermint Pattie."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insect fragments and rodent hair fragments; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: May 13 and June 7, 1948. Default decrees of condemnation and destruction.

13055. Adulteration of candy. U. S. v. 40 Boxes * * *. (F. D. C. No. 24607. Sample No. 7658-K.)

LIBEL FILED: April 19, 1948, Western District of New York.

ALLEGED SHIPMENT: On or about March 3, 1948, by the G. C. Murphy Co., from McKeesport, Pa.

PRODUCT: 40 5-pound boxes of candy at Lancaster, N. Y.

LABEL, IN PART: "Milk Chocolate Covered Cherries * * * Manufactured by Thurman's Inc., Mollenauer, Pennsylvania."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent hair fragments and insect fragments; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: May 17, 1948. Default decree of condemnation and destruction.

13056. Adulteration of candy. U. S. v. 31 Boxes, etc. (F. D. C. No. 24017. Sample No. 27114-K.)

LIBEL FILED: December 11, 1947, Southern District of Illinois.

ALLEGED SHIPMENT: On or about October 14, 1947, by Mi-Jean Candies, from Waterloo, Iowa.

PRODUCT: 31 1-pound boxes and 7 5-pound boxes of candy at Galesburg, Ill.

LABEL, IN PART: "Mi-Jean Candies Sophisticate," or "Milk Double Choc. Mints."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of larvae and other insects, insect fragments, and rodent hair fragments; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: April 20, 1948. Default decree of condemnation and destruction.

13057. Adulteration of candy. U. S. v. 20 Cartons * * * (and 2 other seizure actions). (F. D. C. Nos. 24381, 24383, 24707. Sample Nos. 18944-K, 19065-K, 39383-K.)

LIBELS FILED: March 12 and 16 and April 5, 1948, Eastern District of Kentucky.

ALLEGED SHIPMENT: On or about February 18 and 20, 1948, by the Whitson Candy Co., from Knoxville, Tenn.

PRODUCT: 20 cartons at London, Ky., 35 cartons at Danville, Ky., and 43 boxes at Harlan, Ky., each containing 24 candy sticks.

LABEL, IN PART: "Whitson's Old Fashioned * * * Stick Candy * * * 1¾ Ozs."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent hair fragments and insect fragments; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: April 8 and 27, 1948. Default decrees of condemnation and destruction.

13058. Adulteration of candy. U. S. v. 8 Cartons * * *. (F. D. C. No. 24404. Sample No. 21094-K.)

LIBEL FILED: January 8, 1948, District of Kansas.

ALLEGED SHIPMENT: On or about December 17, 1947, by the Chase Candy Co., from St. Joseph, Mo.

PRODUCT: 8 cartons, each containing 6 boxes of 24 1⅞-ounce pieces, of candy at Atchison, Kans.

LABEL, IN PART: "Chase's Candies Chocolate Plain Marshmallow Hearts."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent hairs; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: April 1, 1948. Default decree of condemnation and destruction.

13059. Adulteration of chocolate candy. U. S. v. 22 Cases, etc. (F. D. C. No. 24316. Sample Nos. 4863-K, 4864-K.)

LIBEL FILED: January 26, 1948, District of New Hampshire.

ALLEGED SHIPMENT: On or about October 7 and November 24, 1947, by the Liberty Chocolate Co., from Boston, Mass.

PRODUCT: 22 cases, each containing 36 packages, and 32 cases, each containing 24 packages, of chocolate candy at Manchester, N. H.

LABEL, IN PART: "Sue Perkins Chocolates Chest Package [or "Assorted Chocolates Square Package"] One Pound Net."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a filthy substance by reason of the presence of rodent hair fragments; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: May 4, 1948. Default decree of condemnation and destruction.

13060. Adulteration of candy. U. S. v. 5 Cases * * * (and 1 other seizure action). (F. D. C. Nos. 23755, 23756. Sample Nos. 76976-H, 89503-H.)

LIBELS FILED: September 13 and 16, 1947, District of Minnesota.

ALLEGED SHIPMENT: On or about August 26 and 27, 1947, by Candyland, Inc., from Sioux City, Iowa.

PRODUCT: 33 cases, each containing 48 6-ounce packages, of candy at St. Paul, Minn.

LABEL, IN PART: "Candyland * * * Marshmallows."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent hair fragments, rodent excreta fragments, and insect fragments; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: December 15, 1947, and April 13, 1948. Default decrees ordering product denatured for use as animal feed or destroyed.

13061. Adulteration of candy. U. S. v. 519 Packages * * *. (F. D. C. No. 24499. Sample Nos. 28492-K, 28493-K, 29205-K.)

LIBEL FILED: March 30, 1948, District of Colorado.

ALLEGED SHIPMENT: On or about March 1, 1948, by the Sweet Candy Co., from Salt Lake City, Utah.

PRODUCT: 519 packages each containing 1 8-ounce candy Easter egg at Denver, Colo.

LABEL, IN PART: "Sweet's Salt Lake Candies."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insect fragments, rodent hair fragments, and feather barbules; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: May 18, 1948. Consent decree of condemnation and destruction.

CHOCOLATE AND COCOA PRODUCTS

13062. Adulteration of chocolate coating. U. S. v. 5 Bales * * *. (F. D. C. No. 24608. Sample No. 7984-K.)

LIBEL FILED: April 21, 1948, Western District of Pennsylvania.

ALLEGED SHIPMENT: On or about March 31, 1948, by the Union Biscuit Co., from St. Louis, Mo.

PRODUCT: 5 bales, each containing 20 bars, of chocolate coating at Pittsburgh, Pa.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insect-damaged chocolate containing insect webbing and excreta.

DISPOSITION: May 21, 1948. Default decree of condemnation and destruction.

13063. Adulteration of chocolate liquor. U. S. v. 3 Bags * * *. (F. D. C. No. 21118. Sample No. 53084-H.)

LIBEL FILED: On or about September 30, 1946, Northern District of Ohio.

ALLEGED SHIPMENT: On or about May 3, 1946, from Brooklyn, N. Y.

PRODUCT: 3 200-pound bags of chocolate liquor at Cleveland, Ohio.

LABEL, IN PART: "A. A. Liquor Chocolate."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of insect infestation.

DISPOSITION: December 11, 1947. Default decree of condemnation and destruction.

13064. Misbranding of chocolate-flavored sirup. U. S. v. 25 Cartons * * *. (F. D. C. No. 24023. Sample No. 31113-K.)

LIBEL FILED: December 18, 1947, District of Nevada.

ALLEGED SHIPMENT: On or about December 24, 1946, by Silver Hill Products, Inc., from New York, N. Y.

PRODUCT: 25 cartons, each containing 6 cans, of chocolate-flavored sirup at Las Vegas, Nev.

LABEL, IN PART: "Van Delft's Double Strength Chocolate Flavored Syrup Net Weight 96 Fluid Ounces."

NATURE OF CHARGE: Misbranding, Section 403 (e) (2), the article failed to bear a label containing an accurate statement of the quantity of the contents. (The article was short-volume.)

DISPOSITION: January 23, 1948. Default decree of condemnation. The product was ordered delivered to a local hospital.

13065. Adulteration of cocoa beans. U. S. v. 204 Bags * * *. (F. D. C. No. 19887. Sample No. 65309-H.)

LIBEL FILED: May 8, 1946, Eastern District of Pennsylvania.

ALLEGED SHIPMENT: On or about June 29, 1944, from New York, N. Y.

PRODUCT: 204 150-pound bags of cocoa beans at Philadelphia, Pa.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of wormy cocoa beans.

DISPOSITION: September 4, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

MISCELLANEOUS SACCHARINE PRODUCTS

13066. Adulteration and misbranding of maple sirup. U. S. v. Joseph A. O'Melia. Plea of guilty. Fine, \$150. (F. D. C. No. 23271. Sample Nos. 66575-H, 66670-H, 66674-H.)

INFORMATION FILED: January 8, 1948, Eastern District of Pennsylvania, against Joseph A. O'Melia, Lawndale (Philadelphia), Pa.

ALLEGED SHIPMENT: Between the approximate dates of February 20 and May 20, 1947, from the State of Pennsylvania into the States of Delaware and New Jersey.

PRODUCT: Two of the shipments were invoiced "Maple Syrup." The remaining shipment was represented to be maple sirup by oral representations of the defendant.

NATURE OF CHARGE: Adulteration, Section 402 (b) (1), a valuable constituent, maple sirup, had been in part omitted; Section 402 (b) (2), partially inverted sugar sirup artificially flavored and artificially colored with little or no maple sirup had been substituted for maple sirup; Section 402 (b) (3), the article was inferior to maple sirup, and its inferiority had been concealed by the addition of artificial flavor and artificial color; and, Section 402 (b) (4), artificial flavor and artificial color had been added, mixed, and packed with the article so as to make it appear to be maple sirup.

Misbranding, Sections 403 (e) (1) and (2), the product failed to bear a label containing the name and place of business of the manufacturer, packer, or distributor, and an accurate statement of the quantity of the contents; Section 403 (i) (1), the label failed to bear the common or usual name of the food; and, Section 403 (i) (2), the product was fabricated from two or more ingredients, and its label failed to bear the common or usual name of each such ingredient.

DISPOSITION: March 19, 1948. A plea of guilty having been entered, the defendant was fined \$150.

13067. Adulteration of sorghum grain sirup. U. S. v. 38 Barrels, etc. (F. D. C. No. 22510. Sample No. 50860-H.)

LIBEL FILED: February 11, 1946, District of Minnesota.

ALLEGED SHIPMENT: Between the approximate dates of November 17 and December 18, 1946, by Grain Derivatives Corp., from Louisville, Ky.

PRODUCT: 578 barrels of sorghum grain sirup at Minneapolis, Minn.

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), a mixture of sorghum grain sirup with rust, soot, lacquer, and other foreign material had been substituted for sorghum grain sirup, which the product was represented to be.

DISPOSITION: March 4, 1947. The Grain Derivatives Corp., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond to be brought into compliance with the law, under the supervision of the Food and Drug Administration. The sirup was brought into compliance with the law by straining.

13068. Misbranding of sirup. U. S. v. 18 Cases * * *. (F. D. C. No. 23806. Sample No. 18118-K.)

LIBEL FILED: October 10, 1947, Eastern District of Tennessee.

ALLEGED SHIPMENT: On or about April 18, 1947, by the Rainbow Syrup Co., from Gadsden, Ala.

PRODUCT: 18 cases, each containing 6 bottles, of sirup at Chattanooga, Tenn.

LABEL, IN PART: "Rainbow [or "Crystal"] Syrup * * * Composed of Corn Syrup, Sugar and Honey Number 5."

NATURE OF CHARGE: Misbranding, Section 403 (e) (2), the product failed to bear a label containing an accurate statement of the quantity of the contents. (No statement of the quantity of the contents appeared on the label.)

DISPOSITION: December 30, 1947. Default decree of condemnation and destruction. (Editor's note: In addition to being misbranded, the product was moldy and unfit for food.)

13069. Misbranding of sirup. U. S. v. 2 Cases * * *. (F. D. C. No. 24387. Sample No. 4355-K.)

LIBEL FILED: On or about March 18, 1948, District of Maine.

ALLEGED SHIPMENT: On or about December 9, 1947, by the Chas. Malone Co., from Cambridge, Mass.

PRODUCT: 2 cases, each containing 2 1-gallon jugs, of sirup at Portland, Maine.

LABEL, IN PART: "Malone's Maple Queen Brand Pancake Syrup."

NATURE OF CHARGE: Misbranding, Section 403 (a), the label statement "Maple Queen Syrup" was false and misleading, since the sirup derived most of its flavor from artificial flavor. (Analysis showed that the product was a sirup with a marked artificial taste and caramel-like odor.

DISPOSITION: May 19, 1948. Default decree of condemnation and destruction.

13070. Adulteration of molasses. U. S. v. 52 Barrels * * *. (F. D. C. No. 24320. Sample No. 432-K.)

LIBEL FILED: January 27, 1948, Western District of North Carolina.

ALLEGED SHIPMENT: On or about December 18, 1946, by the X-L Sugar Products Co., from Brooklyn, N. Y.

PRODUCT: 52 barrels, each containing 55 gallons, of molasses at Charlotte, N. C.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product was unfit for food by reason of its strong odor and taste similar to that of paint.

DISPOSITION: May 11, 1948. The Charlotte Chemical Laboratories, Inc., Charlotte, N. C., having appeared as claimant, the case came on for trial before the court. Evidence was presented, and at the conclusion thereof the court made its findings of fact and conclusions of law sustaining the allegations of the libel. Thereupon, judgment of condemnation and destruction was entered.

13071. Misbranding of honey. U. S. v. 61 Cases, etc. (F. D. C. No. 23413. Sample Nos. 89120-H, 89121-H.)

LIBEL FILED: August 15, 1947, District of New Mexico.

ALLEGED SHIPMENT: On or about May 10, 1947, by the Bart Mann Co., from San Angelo, Tex.

PRODUCT: 123 cases, each containing 24 jars, of honey at Albuquerque, N. Mex.

LABEL, IN PART: "Marshall Brand Pure Honey Contents 8 Oz. Avoir. [or "1 Pound"]."

NATURE OF CHARGE: Misbranding, Section 403 (e) (2), the article failed to bear a label containing an accurate statement of the quantity of the contents. The label statements "Contents 8 Oz. Avoir." and "Contents 1 Pound" were inaccurate, since the jars contained less than the declared weights.

DISPOSITION: September 2, 1947. Bart W. Mann, claimant, having admitted the material allegations in the libel, judgment of condemnation was entered and the product was ordered released under bond to be repacked and properly labeled in full compliance with the law, under the supervision of the Federal Security Agency.

DAIRY PRODUCTS

BUTTER

The following cases report actions involving butter that consisted in whole or in part of filthy or decomposed substances, Nos. 13072 to 13076; that was below the legal standard for milk fat content, Nos. 13076 to 13086; that was short of the declared weight, No. 13085; and that was unlabeled as to weight of product, No. 13086.

13072. Adulteration of butter. U. S. v. Hubert L. Boecker (The Boecker Creamery). Plea of guilty. Fine, \$100. (F. D. C. No. 24507. Sample No. 79703-H.)

INFORMATION FILED: March 2, 1948, District of South Dakota, against Hubert L. Boecker, trading as the Boecker Creamery, Canova, S. Dak.

ALLEGED SHIPMENT: On or about August 15, 1947, from the State of South Dakota into the State of Illinois.

LABEL, IN PART: "Butter The Marketing Association of America * * * Distributors Chicago Illinois."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a filthy substance by reason of the presence of insects, insect fragments, rodent hairs, cow hairs, manure, and nondescript dirt.

DISPOSITION: March 25, 1948. A plea of guilty having been entered, the defendant was fined \$100.

13073. Adulteration of butter. U. S. v. The Fairmont Creamery Co. Plea of nolo contendere. Fine, \$40 and costs. (F. D. C. No. 22029. Sample Nos. 72710-H, 72711-H.)

INFORMATION FILED: April 16, 1947, District of Nebraska, against the Fairmont Creamery Co., a corporation, Scottsbluff, Nebr.

ALLEGED SHIPMENT: On or about September 13, 1946, from the State of Nebraska into the State of Wyoming.

LABEL, IN PART: (Carton) "Made by The Finke Creamery Co. Scottsbluff, Nebraska"; (wrapper) "Fairmont's Better Butter."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insect parts, insect setae, rodent hairs, a cat hair, and feather barbules.

DISPOSITION: April 23, 1948. A plea of nolo contendere having been entered, the court imposed a fine of \$20 on each of the 2 counts of the information, plus costs.

13074. Adulteration of butter. U. S. v. 70 Cases * * * (and 1 other seizure action). (F. D. C. Nos. 24153, 24167. Sample Nos. 22605-K, 22648-K.)

LIBELS FILED: October 22 and 30, 1947, Eastern and Western Districts of Louisiana.

ALLEGED SHIPMENT: On or about October 13 and 22, 1947, by the Fort Worth Poultry & Egg Co., from Fort Worth, Tex.

PRODUCT: Butter. 70 32-pound cases at New Orleans, La., and 12 32-pound cases at Shreveport, La.

LABEL, IN PART: "Armour Cloverbloom Butter."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed animal substance. (Examination showed the presence of mold.)

DISPOSITION: November 14 and 24, 1947. The Fort Worth Poultry & Egg Co., claimant, having consented to the entry of decrees, judgments of condemnation were entered and the product was ordered released under bond to be converted into butter oil, under the supervision of the Food and Drug Administration.

13075. Adulteration of butter. U. S. v. 6½ Cases * * * (and 2 other seizure actions). (F. D. C. Nos. 24156 to 24158, incl. Sample Nos. 19014-K, 19017-K, 19020-K.)

LIBELS FILED: September 24 and 26, 1947, Southern District of West Virginia.

ALLEGED SHIPMENT: September 4, 10, and 11, 1947, by the Fairmont Creamery Co., from Columbus, Ohio.

PRODUCT: 18 cases, each containing 32-pounds, of butter at Huntington, W. Va.

LABEL, IN PART: "Fairmont's Better Butter."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a decomposed substance, since it contained excessive mold mycelia, showing the use of decomposed cream.

DISPOSITION: November 28, 1947. The Fairmont Foods Co., claimant, having admitted the allegations of the libels, and the libels having been consolidated, judgments of condemnation were entered and the product was ordered released under bond to be converted into butter oil, under the supervision of the Food and Drug Administration.

13076. Adulteration of butter. U. S. v. Paul Sorenson (Clover Blossom Creamery). Plea of guilty. Fine, \$300. (F. D. C. No. 24106. Sample Nos. 93329-H, 93330-H.)

INFORMATION FILED: March 3, 1948, District of Colorado, against Paul Sorenson, trading as the Clover Blossom Creamery, Holyoke, Colo.

ALLEGED SHIPMENT: Between the approximate dates of August 19 and 26, 1947, from the State of Colorado into the State of Nebraska.

LABEL, IN PART: "Clover Blossom Brand Creamery Butter."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a filthy substance by reason of the presence of whole insects, insect parts, insect setae, moth scales, rodent hair and animal hair resembling rodent hair, and feather barbules; Section 402 (a) (4), it had been prepared and packed under insanitary conditions whereby it may have become contaminated with filth; (portion) Section 402 (b) (1), a valuable constituent, milk fat, had been omitted from the product; and, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

DISPOSITION: April 6, 1948. A plea of guilty having been entered, the defendant was fined \$300.

13077. Adulteration of butter. U. S. v. Davis-Cleaver Produce Co. Plea of guilty. Fine, \$250 and costs. (F. D. C. No. 19514. Sample Nos. 7474-H, 7475-H, 23117-H.)

INFORMATION FILED: March 28, 1946, Southern District of Illinois, against the Davis Cleaver Produce Co., a corporation, Quincy, Ill.

ALLEGED SHIPMENT: On or about July 16 and August 3, 1945, from the State of Illinois into the States of Missouri and New York.

LABEL, IN PART: (Wrappers, portion) "Ferndale Butter."

NATURE OF CHARGE: Adulteration, Section 402 (b) (1), a valuable constituent, milk fat, had been in part omitted; and, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

DISPOSITION: December 10, 1947. A plea of guilty having been entered on behalf of the defendant, a fine of \$250 was imposed, plus costs.

13078. Adulteration of butter. U. S. v. Fairmont Foods Co. Plea of nolo contendere. Fine, \$50. (F. D. C. No. 24511. Sample No. 22163-K.)

INFORMATION FILED: March 20, 1948, Western District of Oklahoma, against the Fairmont Foods Co., a corporation, Lawton, Okla.

ALLEGED SHIPMENT: On or about August 17, 1947, from the State of Oklahoma into the State of Louisiana.

LABEL, IN PART: "American Beauty Butter Packed for L. Frank and Co."

NATURE OF CHARGE: Adulteration, Section 402 (b) (1), a valuable constituent, milk fat, had been in part omitted from the product; and, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

DISPOSITION: April 8, 1948. A plea of nolo contendere having been entered on behalf of the defendant, a fine of \$50 was imposed.

13079. Adulteration of canned butter. U. S. v. S. & W. Waldbaum, Inc. Plea of guilty. Fine, \$250. (F. D. C. No. 23296. Sample No. 69905-H.)

INFORMATION FILED: December 2, 1947, Southern District of New York, against S. & W. Waldbaum, Inc., New York, N.Y.

ALLEGED SHIPMENT: Between the approximate dates of October 11 and 16, 1946, from the State of New York into the State of Illinois.

LABEL, IN PART: "Distributed By Empire Foods, Inc. Chicago, Ill. * * * Fancy Creamery Butter."

NATURE OF CHARGE: Adulteration, Section 402 (b) (1), a valuable constituent, milk fat, had been omitted from the product; and, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

DISPOSITION: December 4, 1947. A plea of guilty having been entered, the defendant was fined \$250.

13080. Adulteration of butter. U. S. v. 39 Boxes (2,457 pounds) * * *. (F. D. C. No. 23927. Sample Nos. 83402-H, 83411-H.)

LIBEL FILED: July 7, 1947, Southern District of Ohio.

ALLEGED SHIPMENT: On or about May 28, 1947, by the Linwood Creamery Co., from Wichita, Kans.

PRODUCT: 39 63-pound boxes of butter at Cincinnati, Ohio.

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

DISPOSITION: August 27, 1947. The Merchants Creamery Co., Cincinnati, Ohio, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be reworked under the supervision of the Food and Drug Administration.

13081. Adulteration of butter. U. S. v. 14 Boxes (420 pounds) * * *. (F. D. C. No. 24835. Sample No. 6353-K.)

LIBEL FILED: April 19, 1948, Western District of Pennsylvania.

ALLEGED SHIPMENT: On or about April 8, 1948, by the Page Dairy Co., from Mansfield, Ohio.

PRODUCT: 14 boxes, each containing 30 1-pound prints, of butter at New Castle, Pa.

LABEL, IN PART: "Page's Kleen Maid Creamery Butter."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

DISPOSITION: May 10, 1948. The Page Dairy Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond to be reworked under the supervision of the Food and Drug Administration.

13082. Adulteration of butter. U. S. v. 13 Cartons (approximately 780 pounds) * * *. (F. D. C. No. 24837. Sample No. 24250-K.)

LIBEL FILED: April 2, 1948, Southern District of New York.

ALLEGED SHIPMENT: On or about March 24, 1948, by the Maxfield Creamery, from Maxfield, Iowa.

PRODUCT: 13 cartons, each containing approximately 60 pounds, of butter at New York, N. Y.

LABEL, IN PART: "Butter Lewis Ebert & Sons, Inc., Distributors New York, N. Y."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

DISPOSITION: April 21, 1948. Lewis Ebert & Sons, Inc., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be reworked under the supervision of the Food and Drug Administration.

13083. Adulteration of butter. U. S. v. 11 Cartons (704 pounds) * * *. (F. D. C. No. 24864. Sample No. 25091-K.)

LIBEL FILED: May 3, 1948, Western District of Wisconsin.

ALLEGED SHIPMENT: On or about April 27, 1948, by the Hart Creamery Assoc., from Rushford, Minn.

PRODUCT: 11 cartons, each containing 64 pounds, of butter at La Crosse, Wis.

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

DISPOSITION: June 3, 1948. The Hart Creamery Assoc., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond to be brought into compliance with the law, under the supervision of the Food and Drug Administration.

13084. Adulteration of butter. U. S. v. 7 Cartons (approximately 420 pounds) * * *. (F. D. C. No. 24863. Sample No. 24259-K.)

LIBEL FILED: May 5, 1948, District of New Jersey.

ALLEGED SHIPMENT: On or about April 23, 1948, by the Redwood Creamery, from Redwood Falls, Minn.

PRODUCT: 7 cartons, each containing approximately 60 pounds, of butter at Jersey City, N. J.

LABEL, IN PART: "June Dairy Products Co., Inc. Distributors Jersey City, N. J."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

DISPOSITION: June 21, 1948. The Redwood Creamery Co., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be reworked under the supervision of the Food and Drug Administration.

13085. Adulteration and misbranding of butter. U. S. v. National Cheese Co., a corporation, and Louis Sokolsky. Pleas of guilty. Corporation fined \$500 and costs; individual fined \$100 and costs. (F. D. C. No. 23307. Sample Nos. 14936-H, 14937-H, 39016-H to 39018-H, incl., 39787-H, 39788-H, 50547-H.)

INFORMATION FILED: August 8, 1947, Northern District of Illinois, against the National Cheese Co., Chicago, Ill., and Louis Sokolsky, president.

ALLEGED SHIPMENT: On or about November 16, 1946, and January 20, 21, and 23, 1947, from the State of Illinois into the States of Michigan and Louisiana.

LABEL, IN PART: "Daisy Brand * * * Whipped Butter 8 Oz. Net Weight."

NATURE OF CHARGE: Adulteration, Section 402 (b) (1), a valuable constituent, milk fat, had been in part omitted; and, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter. Misbranding (one lot), Section 403 (e) (2), the product failed to bear a label containing an accurate statement of the quantity of the contents. The label statement "8 Oz. Net Weight" was inaccurate, since the cartons contained less than 8 ounces net weight.

DISPOSITION: November 6, 1947. Pleas of guilty having been entered, the corporation was fined \$500 and the individual defendant was fined \$100, plus costs.

13086. Adulteration and misbranding of butter. U. S. v. 24 Cases * * *. (F. D. C. No. 24836. Sample No. 36481-K.)

LIBEL FILED: April 13, 1948, Western District of Washington.

ALLEGED SHIPMENT: On or about April 5, 1948, by Home Creamery, from Helena, Mont.

PRODUCT: 24 cases, each containing 50 1-pound prints, of butter at Seattle, Wash.

LABEL, IN PART: (Shipping case) "Home Creamery Helena, Mont."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

Misbranding, Section 403 (e) (1), the package failed to bear a label containing the name and place of business of the manufacturer, packer, or distributor; Section 403 (e) (2), it failed to bear an accurate statement of the quantity of the contents, since it bore no statement of the quantity of the contents; and, Section 403 (i) (1), its label did not bear a statement of the common or usual name of the food.

DISPOSITION: May 7, 1948. The Home Creamery, claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond to be rechurned and relabeled under the supervision of the Food and Drug Administration.

CHEESE

13087. Adulteration of Cheddar cheese. U. S. v. Southern Gold Cheese Co., Inc. Plea of nolo contendere. Fine, \$500 and costs. (F. D. C. No. 22083. Sample No. 53713-H.)

INFORMATION FILED: February 21, 1948, Western District of Kentucky, against the Southern Gold Cheese Co., Inc., of McKenzie, Tenn., and Fredonia, Ky.

ALLEGED SHIPMENT: On or about December 5, 1946, from the State of Kentucky into the State of Tennessee.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a filthy substance by reason of the presence of insects and a rodent hair; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: April 19, 1948. A plea of nolo contendere having been entered, a fine of \$500, together with costs, was imposed.

13088. Adulteration of cottage cheese. U. S. v. Meriden Creamery Co., Inc. Plea of nolo contendere. Fine, \$500 and costs. (F. D. C. No. 22044. Sample Nos. 26293-H, 26294-H, 33531-H, 49170-H, 72502-H.)

INFORMATION FILED: July 18, 1947, District of Kansas, against the Meriden Creamery Co., Inc., Hutchinson, Kans.

ALLEGED SHIPMENT: On or about May 8, July 31, and August 1 and 2, 1946, from the State of Kansas into the States of New Mexico, Texas, and Colorado.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a filthy substance.

DISPOSITION: November 20, 1947. A plea of nolo contendere having been entered, a fine of \$500, together with costs, was imposed.

13089. Adulteration and misbranding of washed curd cheese. U. S. v. Cabot Farmers' Cooperative Creamery Co., Inc. Plea of guilty. Fine, \$300. (F. D. C. No. 24235. Sample Nos. 74025-H, 74896-H.)

INFORMATION FILED: April 5, 1948, District of Vermont, against the Cabot Farmers' Cooperative Creamery Co., Inc., Cabot, Vt.

ALLEGED SHIPMENT: On or about April 11 and 14, 1947, from the State of Vermont into the States of New Hampshire and Connecticut.

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), a product containing less than 50 percent of milk fat had been substituted for washed curd cheese.

Misbranding, Section 403 (g) (1), the product failed to conform to the definition and standard of identity for washed curd cheese, since its solids contained less than 50 percent of milk fat.

DISPOSITION: April 21, 1948. A plea of guilty having been entered on behalf of the defendant, a fine of \$300 was imposed.

13090. Adulteration of cheese. U. S. v. 86 Pounds * * * (and 9 other seizure actions). (F. D. C. Nos. 23444, 23744 to 23746, incl., 23771, 23781, 23988, 24015, 24185, 24188. Sample Nos. 66353-H, 84887-H, 84892-H, 87689-H, 99972-H, 4167-K, 7001-K, 7060-K, 12228-K, 12229-K, 13031-K, 13032-K.)

LIBELS FILED: Between September 4 and December 16, 1947, Western, Eastern, and Middle Districts of Pennsylvania, Northern District of Ohio, and District of Massachusetts.

ALLEGED SHIPMENT: Between the approximate dates of July 9 and November 18, 1947, by the Empire State Cheese Co., from Olean, N. Y.

PRODUCT: 7,291½ pounds of cheese and 110 pounds of grated cheese in various lots at Erie, Old Forge, Susquehanna, Wilkes-Barre, Hazleton, and Philadelphia, Pa.; Ashtabula and Youngstown, Ohio; and Boston, Mass.

LABEL, IN PART: (Portions) "Emscco Cheese * * * Romano [or "Grated"]," "Emscco Cheese Pepato," "Emscco * * * Ricotta-Secca," or "Emscco Cheese."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of cheese mites and, in some of the lots, insect fragments and rodent hair fragments; Section 402 (a) (4), (portion of product) it had been prepared and held under insanitary conditions whereby it may have become contaminated with filth; and, Section 402 (a) (2), (Wilkes-Barre lot) it contained an added poisonous and deleterious substance, hydrocyanic acid, which is unsafe within the meaning of the law, since it is a substance not required in the production of the food and could have been avoided by good manufacturing practice.

DISPOSITION: Between December 24, 1947, and April 19, 1948. Default decrees of condemnation and destruction.

13091. Adulteration of Italian-type cheese. U. S. v. 200 Cases, etc. (F. D. C. No. 23735. Sample Nos. 86851-H to 86853-H, incl.)

LIBEL FILED: September 12, 1947, District of Minnesota.

ALLEGED SHIPMENT: On or about July 2, 17, and 30, 1947, by the Stella Cheese Co., from Rice Lake, Wis.

PRODUCT: 600 cases, each containing approximately 126 pounds, of Italian-type cheese at Duluth, Minn.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insect fragments, rodent hairs, and manure fragments, and by reason of the use of filthy milk in its preparation.

DISPOSITION: February 9, 1948. The Stella Cheese Co., Campbellsport, Wis., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond for salvaging under the supervision of the Food and Drug Administration; 37,354½ pounds of the cheese was salvaged as fit for human consumption.

13092. Misbranding of cheese. U. S. v. 70 Crockes, etc. (F. D. C. No. 24323. Sample No. 9737-K.)

LIBEL FILED: On or about February 2, 1948, Southern District of New York.

ALLEGED SHIPMENT: On or about December 23, 1947, by the June Dairy Products Co., Inc., Jersey City, N. J.

PRODUCT: 129 4-ounce, 8-ounce, and 12-ounce crocks of cheese at New York, N. Y.

LABEL, IN PART: "June Dairy Colonial Cheese Bleu [or "Gorgonzola," or "Cheddar"] Cheese."

NATURE OF CHARGE: Misbranding, Section 403 (e) (2), the product failed to bear a label containing an accurate statement of the quantity of the contents, since the label statements "Net Weight 4 Ounces," "Net Weight 8 Ounces," and "Net Weight 12 Ounces" were inaccurate. (Examination showed that the article was short-weight.)

DISPOSITION: March 1, 1948. Default decree of condemnation. The product was ordered delivered to a charitable institution.

EGGS AND EGG PRODUCTS

13093. Adulteration of frozen whole eggs. U. S. v. 648 Cans * * * (and 2 other seizure actions). (F. D. C. Nos. 21319, 22228, 22229. Sample Nos. 57631-H, 57632-H, 63880-H.)

LIBELS FILED: October 16, 1946, and January 30, 1947, Middle District of Pennsylvania and District of Massachusetts.

ALLEGED SHIPMENT: In or about August 15 and December 3, 1946, by the Arthur Redmond Co., Inc., from Terre Haute, Ind., and New York, N. Y.

PRODUCT: 648 cans at Scranton, Pa., 100 cans at New Bedford, Mass., and 120 cans at Boston, Mass., each can containing 30 pounds of frozen whole eggs.

LABEL, IN PART: "Kirby Kuality Dublegg Frozen Concentrated Whole Eggs," "Frozen Whole Eggs Packed by Tri-State Produce Co. Sioux City, Iowa," or "Capital Butter & Egg Co., Washington 4, D. C. Whole Eggs."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed or putrid substance. (Examination showed the presence of decomposed or putrid eggs.)

DISPOSITION: December 11, 1946, and February 24, 1947. The Arthur Redmond Co., Inc., claimant, having consented to the entry of decrees, judgments of condemnation were entered and the product was ordered released under bond, conditioned that the unfit portion be segregated and destroyed under the supervision of the Food and Drug Administration.

13094. Adulteration of frozen whole eggs. U. S. v. 160 Tins * * *. (F. D. C. No. 24038. Sample No. 37221-K.)

LIBEL FILED: December 23, 1947, Western District of Washington.

ALLEGED SHIPMENT: On or about November 1, 1947, by the Fergus County Creamery, from Lewistown, Mont.

PRODUCT: 160 30-pound tins of frozen whole eggs at Tacoma, Wash.

LABEL, IN PART: "Armour's Cloverbloom Frozen Whole Eggs Armour Creameries Chicago, Ill."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance. (Examination showed the presence of decomposed eggs.)

DISPOSITION: February 27, 1948. The Fergus County Creamery, claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond for segregation of the fit from the unfit portion, under the supervision of the Food and Drug Administration. 46 cans were found unfit and were denatured and destroyed; the remaining cans were released to the claimant.

13095. Adulteration of frozen eggs. U. S. v. 38 Cans * * *. (F. D. C. No. 12123. Sample No. 1471-F.)

LIBEL FILED: April 4, 1944, Northern District of Indiana.

ALLEGED SHIPMENT: On or about March 14, 1944, by the Marshfield Dairy Products Co., from Marshfield, Wis.

PRODUCT: 38 50-pound cans of frozen eggs at South Bend, Ind.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance.

DISPOSITION: On or about June 27, 1944. Default decree of condemnation and destruction.

13096. Adulteration of powdered egg yolks. U. S. v. 2 Drums * * *. (F. D. C. No. 24423. Sample No. 24400-K.)

LIBEL FILED: January 23, 1948, District of Minnesota.

ALLEGED SHIPMENT: On or about November 18, 1947, by the Ohio Pure Food Co., from Middleport, Ohio.

PRODUCT: 2 100-pound drums of powdered egg yolks at Anoka, Minn.

LABEL, IN PART: "Super K10 Powder Spray Powdered Egg Yolk."

NATURE OF CHARGE: Adulteration,, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insect fragments, rodent hair fragments, and mites; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: April 26, 1948. Default decree of condemnation. The product was ordered denatured for use as animal feed or destroyed.

FEEDS AND GRAINS

13097. Adulteration of ground yellow corn. U. S. v. Willard E. Barry (Weston Feed Mills). Plea of guilty. Fine, \$50 and costs. (F. D. C. No. 24521. Sample No. 109-K.)

INFORMATION FILED: April 9, 1948, District of Nebraska, against Willard E. Barry, trading as the Weston Feed Mills, Weston, Nebr.

ALLEGED SHIPMENT: On or about September 16, 1947, from the State of Nebraska into the State of Georgia.

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), a substance possessing a musty odor and containing oat hulls and burnt corn particles had been substituted for ground yellow corn.

DISPOSITION: May 10, 1948. A plea of guilty having been entered, the court imposed a fine of \$50 and costs.

13098. Adulteration and misbranding of Mineral Block. U. S. v. William H. Lapp (Wm. H. Lapp Laboratories). Plea of guilty. Fine, \$100 and costs. (F. D. C. No. 23239. Sample No. 49989-H.)

INFORMATION FILED: September 12, 1947, Southern District of Iowa, against William H. Lapp, trading as the Wm. H. Lapp Laboratories, at Nevada, Iowa.

ALLEGED SHIPMENT: On or about May 24, 1946, from the State of Iowa into the State of Missouri.

LABEL, IN PART: "Farm Master * * * Mineral Block For Cattle And Hogs * * * Calcium (Ca), not less than — — — 15.00% * * * Phosphorus, not less than — — — 3.30% Iodine, not less than — — — .05% * * * Distributed by Sears, Roebuck and Co. Chicago, Ill. and other leading Cities."

NATURE OF CHARGE: Adulteration, Section 402 (b) (1), valuable constituents, calcium, phosphorus, and iodine, had been in part omitted from the article.

Misbranding, Section 403 (a), the statements "Calcium (Ca), not less than — — — 15.00% * * * Phosphorus, not less than — — — 3.30% Iodine, not less than — — — .05%" borne on the label were false and misleading, since the product contained less than 15 percent of calcium, less than 3.30 percent of phosphorus, and less than .05 percent of iodine.

DISPOSITION: April 23, 1948. A plea of guilty having been entered, the defendant was fined \$100, plus costs.

13099. Adulteration and misbranding of tankage. U. S. v. Austin A. Claypool (Claypool Feed Co.). Plea of nolo contendere. Fine, \$100 and costs. (F. D. C. No. 23619. Sample No. 72201-H.)

INFORMATION FILED: December 21, 1947, Eastern District of Illinois, against Austin A. Claypool, trading as the Claypool Feed Co., Marshall, Ill.

ALLEGED SHIPMENT: On or about April 26, 1947, from the State of Illinois into the State of Kentucky.

LABEL, IN PART: "Claypool's 60% Protein Tankage * * * Guaranteed Analysis Protein . . . 60.00 Per Cent Made From: Meat, Blood Flour, Bone."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), a substance containing soybean oil meal and limestone had been substituted for 60 percent protein tankage, which the product purported and was represented to be.

Misbranding, Section 403 (a), the label statement "Protein . . . 60.00 Per Cent" was false and misleading, since the product contained less than 60 percent of protein; and, Section 403 (i) (2), the label of the product failed to bear the common or usual name of each ingredient, since the label failed to mention the content of soybean oil meal and limestone.

DISPOSITION: December 21, 1947. A plea of nolo contendere having been entered, the defendant was fined \$100, plus costs.

13100. Adulteration and misbranding of meat and bone scraps. U. S. v. Marco Chemical Co. Plea of guilty. Fine, \$1,000. (F. D. C. No. 24064. Sample Nos. 46330-H to 46333-H, incl.)

INFORMATION FILED: April 12, 1948, Northern District of Texas, against the Marco Chemical Co., a corporation, Fort Worth, Tex.

ALLEGED SHIPMENT: August 30 and November 5, 6, and 12, 1946, from the State of Texas into the State of California.

LABEL, IN PART: "Marco 50% Protein Meat and Bone Scraps * * * Crude Protein not less than — — — 50.00 Per Cent."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), ammonium chloride and (in 2 of the 4 shipments) calcium carbonate had been substituted in part for "50% Protein Meat and Bone Scraps."

Misbranding, Section 403 (a), the label statement "Crude Protein not less than — — — 50.00 Per Cent" was false and misleading, since the product contained less than 50 percent of protein. The label statement "50% Protein Meat and Bone Scraps" was false and misleading, since the article did not consist of meat and bone scraps but did consist of a mixture of meat and bone scraps with ammonium chloride and, in 2 of the shipments, calcium carbonate.

DISPOSITION: April 12, 1948. A plea of guilty having been entered on behalf of the defendant, a fine of \$1,000 was imposed.

13101. Adulteration and misbranding of meat and bone scraps. U. S. v. A. F. Rees, Inc. Plea of nolo contendere. Fine, \$50. (F. D. C. No. 23228. Sample No. 34177-H.)

INFORMATION FILED: October 3, 1947, Middle District of Pennsylvania, against A. F. Rees, Inc., Hanover, Pa.

ALLEGED SHIPMENT: On or about September 16, 1946, from the State of Pennsylvania into the State of Maryland.

LABEL, IN PART: "Meat and Bone Scrap * * * Protein . . . 50%."

NATURE OF CHARGE: Adulteration, Section 402 (b) (1), a valuable constituent, protein, had been in part omitted from the product.

Misbranding, Section 403 (a), the label statement "Analysis Protein 50%" was false and misleading, since the product contained less than 50 percent of protein.

DISPOSITION: October 28, 1947. A plea of nolo contendere having been entered on behalf of the defendant, a fine of \$50 was imposed.

13102. Misbranding of Semi-Solid Pig Emulsion. U. S. v. 17 Barrels * * *.
(F. D. C. No. 15707. Sample No. 13528-H.)

LIBEL FILED: March 20, 1945, Southern District of Indiana.

ALLEGED SHIPMENT: On or about October 24, 1944, by the Consolidated Products Co., from Danville, Ill.

PRODUCT: 17 barrels, each containing 400 pounds, of Semi-Solid Pig Emulsion at Lebanon, Ind. Analysis showed that the product was a semisolid mixture of water, casein, lactose, mineral salts, and fats, including fish oil, and that it contained 9.27 percent of protein.

NATURE OF CHARGE: Misbranding, Section 403 (a), the label statement "Guaranteed Analysis * * * Crude protein, not less than . . . 11.0%" was false when applied to an article containing a lesser quantity of protein.

The article was alleged also to be misbranded under the provisions of the law applicable to drugs, as reported in notices of judgment on drugs and devices.

DISPOSITION: The Consolidated Products Co., claimant, filed an answer admitting for the purpose of the instant case only, that the product was misbranded, but stating specifically that the admission was made without prejudice to the right of the claimant to allege and prove in any other action that the product or any like or similar product was not a drug and was not misbranded. The claimant also consented to the entry of a decree of condemnation against the product. In accordance with the answer and consent of the claimant, judgment of condemnation was entered on September 7, 1945, and the product was ordered released under bond for the purpose of relabeling under the supervision of the Federal Security Agency. On October 29, 1945, the claimant filed a report with reference to the disposition of the product, alleging that by reason of a mistake made in good faith the product had been redelivered to the claimant and reprocessed and used in the feeding of hogs on an experimental farm owned by the claimant, prior to the entry of the decree of condemnation. On the same date, the court having found that the above-described disposition of the product was occasioned by a good-faith mistake, an order was entered providing for the cancellation of the bond and the release of the claimant and its surety from further liability thereon.

FISH AND SHELLFISH

13103. Adulteration of frozen rosefish fillets. U. S. v. Independent Fish Co., James Tringali, and Norman Hannibal. Pleas of guilty. Total fines \$300. (F. D. C. No. 22012. Sample Nos. 1845-H, 1914-H.)

INFORMATION FILED: August 22, 1947, District of Massachusetts, against the Independent Fish Co., a partnership, Gloucester, Mass., James Tringali, a partner, and Norman Hannibal, foreman.

ALLEGED VIOLATIONS: The defendants were charged with shipping, on or about May 2, 1946, a consignment of adulterated frozen rosefish fillets from the State of Massachusetts into the State of South Carolina. The defendants were charged also with giving a false guaranty. The guaranty was given to the Progressive Fish Wharf, Inc., Gloucester, Mass., on or about November 14, 1945, and guaranteed that any fish sold by the defendants to the latter firm would pass all United States Food and Drug inspections. Between the approximate dates of November 14, 1945, and May 2, 1946, the defendants sold and delivered to the Progressive Fish Wharf, Inc., a number of boxes of fish which were adulterated. On or about May 2, 1946, the Progressive Fish Wharf, Inc., shipped the fish from the State of Massachusetts into the State of Georgia.

LABEL, IN PART: "Pride of Gloucester Frosted Rosefish Fillets."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a filthy substance by reason of the presence of parasites.

DISPOSITION: April 21, 1948. Pleas of guilty having been entered, the defendants were each fined \$100.

13104. Adulteration of sardine herring. U. S. v. Juliano Bros. Plea of nolo contendere. Fine, \$500. (F. D. C. No. 24103. Sample Nos. 87712-H, 87713-H.)

INFORMATION FILED: February 24, 1948, District of Connecticut, against Juliano Bros., a partnership, New Haven, Conn.

ALLEGED SHIPMENT: On or about July 2, 1947, from the State of Connecticut into the State of New York.

NATURE OF CHARGE: Adulteration, Section 402 (a) (5), the article was in part the product of diseased fish.

DISPOSITION: April 30, 1948. A plea of nolo contendere having been entered, the court imposed a fine of \$250 on each of the 2 counts of the information.

13105. Adulteration of frozen whiting. U. S. v. 169 Boxes * * *. (F. D. C. No. 24577. Sample No. 19264-K.)

LIBEL FILED: March 31, 1948, Northern District of Ohio.

ALLEGED SHIPMENT: On or about March 19, 1948, by the Live Fish Co., from Pittsburgh, Pa.

PRODUCT: 169 20-pound boxes of frozen whiting at Cleveland, Ohio.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a putrid substance. (Examination showed the presence of putrid fish.)

DISPOSITION: May 12, 1948. Default decree of condemnation and destruction.

13106. Adulteration of frozen whiting, frozen yellow pike, and frozen ocean perch. U. S. v. 171 Boxes * * * (and 3 other seizure actions). (F. D. C. Nos. 23863, 23969, 24121, 24409. Sample Nos. 317-K, 8706-K, 18152-K, 22440-K, 22441-K.)

LIBELS FILED: Between October 23, 1947, and January 14, 1948, Northern District of Alabama, Middle District of Tennessee, Northern District of Georgia, and Southern District of New York.

ALLEGED SHIPMENT: Between the approximate dates of September 9 and November 3, 1947, by Morris Fisheries, Inc., from Chicago, Ill.

PRODUCT: 171 boxes at Nashville Tenn., 340 boxes at Birmingham, Ala., and 1,684 boxes at Atlanta, Ga., each box containing 10 pounds of frozen whiting; 406 10-pound cartons of frozen ocean perch at Birmingham, Ala.; and 15 boxes, containing 887 pounds, of frozen yellow pike at New York, N. Y.

LABEL, IN PART: (Portion) "Seacrest Brand Ocean Perch * * * Packed by New England Fillet Company Inc., Boston, Mass."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the products consisted in whole or in part of a decomposed or putrid substance. (Examination showed the presence of decomposed and putrid fish.)

DISPOSITION: Between November 17, 1947, and March 23, 1948. Default decrees of condemnation and destruction.

13107. Adulteration of frozen yellow pike. U. S. v. 6 Boxes * * *. (F. D. C. No. 24193. Sample No. 8714-K.)

LIBEL FILED: On or about December 18, 1947, Southern District of New York.

ALLEGED SHIPMENT: On or about October 18, 1947, by the Waldman's Fish Co., from Montreal, Canada.

PRODUCT: 6 boxes, containing 776 pounds, of frozen yellow pike at New York, N. Y.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance. (Examination showed the presence of decomposed fish.)

DISPOSITION: January 7, 1948. Default decree of condemnation and destruction.

13108. Misbranding of canned tuna fish. U. S. v. 87 Cases * * *. (F. D. C. No. 23875. Sample No. 43559-H.)

LIBEL FILED: October 27, 1947, District of Massachusetts.

ALLEGED SHIPMENT: On or about August 28, 1947, by the Rexton Products Corp., from Los Angeles, Calif.

PRODUCT: 87 cases, each containing 48 cans, of tuna fish at Beverly, Mass.

LABEL, IN PART: (Cans) "Ameri-cana Brand White Meat Grated Tuna * * * Contents 6 Oz. Avoir. Packed by Ameri-cana Fisheries Wilmington, California."

NATURE OF CHARGE: Misbranding, Section 403 (a), the label statement "White Meat Grated Tuna" was false and misleading as applied to grated tuna which was dark in color and had a flavor and odor stronger than that characteristic of white meat tuna; and, Section 403 (e) (2), the article failed to bear a label containing an accurate statement of the quantity of the contents. (The article was short-weight.)

DISPOSITION: March 15, 1948. The Rexton Products Corp., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond for relabeling under the supervision of the Federal Security Agency.

13109. Adulteration of canned crab meat. U. S. v. 98 Cases * * * (and 3 other seizure actions). (F. D. C. Nos. 21200, 21269, 21339, 21709. Sample Nos. 5371-H, 24995-H, 24996-H, 50107-H, 50108-H, 53803-H.)

LIBELS FILED: October 16, 21, and 22, and December 4, 1946, Southern District of Ohio, District of New Jersey, and Southern District of Texas.

ALLEGED SHIPMENT: Between the approximate dates of July 20 and September 7, 1946, by the Skrmetta Seafood Co., from New Orleans, La.

PRODUCT: 98 cases at Columbus, Ohio, 147 cases at Camden, N. J., and 73 and 82 cases at Houston, Tex., each case containing 24 7 $\frac{8}{10}$ - or 6 $\frac{1}{2}$ -ounce cans of crab meat.

LABEL, IN PART: "Sea Treasure Brand Claw [or "White"] Meat American Crab Meat."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance; and, Section 402 (b) (2), brine had been substituted in part for crab meat.

DISPOSITION: January 21, March 13, and October 31, 1947, and March 23, 1948. The Skrmetta Seafood Co., claimant for the Columbus and Camden lots, and Paul Skrmetta, claimant for 73 cases at Houston, having consented to the entry of decrees, judgments of condemnation were entered and the stated lots were ordered released under bond for segregation and destruction of the unfit portion, under the supervision of the Food and Drug Administration. No claim having been entered for 82 cases at Houston, the lot was condemned and ordered destroyed.

13110. Misbranding of oysters. U. S. v. 1 Barrel * * *. (F. D. C. No. 24031. Sample No. 9359-K.)

LIBEL FILED: December 19, 1947, Middle District of Pennsylvania.

ALLEGED SHIPMENT: On or about December 17, 1947, by the John T. Handy Co., from Crisfield, Md.

PRODUCT: 1 barrel, containing approximately 120 1-pint cans, of fresh oysters at Scranton, Pa.

LABEL, IN PART: "Oysters Selects One Pint Handy's Oysters."

NATURE OF CHARGE: Misbranding, Section 403 (g) (1), the product failed to conform to the definition and standard of identity for oysters (selects), since it was not thoroughly drained. (The product contained 10.2 percent excessive liquid.)

DISPOSITION: February 19, 1948. Default decree of condemnation and destruction.

13111. Adulteration of frozen shrimp. U. S. v. 106 boxes * * *. (F. D. C. No. 24726. Sample No. 8727-K.)

LIBEL FILED: April 16, 1948, District of New Jersey.

ALLEGED SHIPMENT: On or about September 25, 1947, by the Versaggi Fish Co., from New York, N. Y.

PRODUCT: 106 boxes, containing approximately 12,170 pounds, of frozen shrimp at Monmouth Beach, N. J.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance. (Examination showed the presence of decomposed shrimp.)

DISPOSITION: April 30, 1948. The Versaggi Fish Co., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond, conditioned that the unfit portion be segregated and destroyed, or denatured, under the supervision of the Food and Drug Administration.

13112. Misbranding of canned shrimp. U. S. v. 21 Cases * * *. (F. D. C. No. 21927. Sample No. 41962-H.)

LIBEL FILED: December 5, 1946, Eastern District of Virginia.

ALLEGED SHIPMENT: On or about September 18, 1946, by L. Lopez Sons, Phoenix, La.

PRODUCT: 21 cases, each containing 48 cans, of shrimp at Norfolk, Va.

LABEL, IN PART: "Lopez Brand Drained Weight 7 Oz. Wet Pack Large Shrimp."

NATURE OF CHARGE: Misbranding, Section 403 (e) (2), the product failed to bear a label containing an accurate statement of the quantity of the contents. (Examination showed that the cans contained less than 7 ounces, the declared weight.)

Further misbranding, Section 403 (h) (2), the product fell below the standard of fill of container for wet-packed shrimp in nontransparent containers, since the cut-out weight of shrimp taken from the can was less than 64 percent of the water capacity of the container and its label failed to bear a statement that it fell below the standard.

DISPOSITION: February 6, 1947. Florian S. Lopez and John B. Lopez, trading as L. Lopez Sons, having appeared as claimants, judgment of condemnation was entered and the product was ordered released under bond to be relabeled under the supervision of the Food and Drug Administration.

13113. Adulteration of Shrimp Chips. U. S. v. 20 Cartons * * *. (F. D. C. No. 24743. Sample No. 9773-K.)

LIBEL FILED: April 29, 1948, Southern District of New York.

ALLEGED SHIPMENT: On or about March 22, 1948, by the Mai-Mai Co., from Newark, N. J.

PRODUCT: 20 cardboard cartons, containing approximately 1,000 pounds, of Shrimp Chips at New York, N. Y.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of cat hair fragments, rodent hair fragments, and insect fragments; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: May 18, 1948. Default decree of condemnation and destruction.

FRUITS AND VEGETABLES

CANNED FRUIT*

13114. Misbranding of canned apricots. U. S. v. 498 Cases * * *. (F. D. C. No. 22919. Sample No. 46186-H.)

LIBEL FILED: April 17, 1947, Northern District of New York.

ALLEGED SHIPMENT: On or about March 20, 1947, by the Jonathan Levi Co., from Oakland, Calif.

*See also No. 13166.

PRODUCT: 498 cases, each containing 24 1-pound, 14-ounce cans, of apricots at Albany, N. Y.

LABEL, IN PART: "Earl Ripe Whole Peeled Apricots in Light Syrup
* * * Distributed by United States Products Corporation Ltd. San Jose, Calif."

NATURE OF CHARGE: Misbranding, Section 403 (g) (2), the product purported to be and was represented as canned apricots, a food for which a definition and standard of identity had been prescribed by the regulations, and its label failed to bear the name of the optional packing medium present in the food as required by the regulations, since the label bore the statement "in Light Syrup" and the article was packed in slightly sweetened water; and, Section, 403 (h) (1), the product fell below the standard of quality for canned apricots, since more than 5 percent of the units in the container were crushed or broken and the label failed to bear the substandard legend.

DISPOSITION: April 6, 1948. The United States Products Corporation, Ltd., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be relabeled under the supervision of the Food and Drug Administration.

13115. Adulteration and misbranding of canned cherries. U. S. v. Stockton Food Products, Inc., and William A. Bundy. Pleas of guilty. Corporation fined \$5,000; individual fined \$2,000 and placed on 2 years' probation. (F. D. C. No. 22100. Sample Nos. 63891-H, 63899-H.)

INFORMATION FILED: July 7, 1947, Northern District of California, against the Stockton Food Products, Inc., Stockton, Calif., and William A. Bundy, president.

ALLEGED SHIPMENT: On or about June 5 and 13, 1946, from the State of California into the State of New York.

LABEL, IN PART: "Real-Ripe Brand Dark Sweet Cherries," or "Heart O' Quality Brand Royal Anne Cherries * * * Extra Heavy Syrup."

NATURE OF CHARGE: Dark sweet cherries. Adulteration, Section 402 (a) (3), the product consisted in part of decomposed cherries.

Royal Anne cherries. Misbranding, Section 403 (a), the label statement "Extra Heavy Syrup" was false and misleading, since the product was packed in heavy sirup; and, Section 403 (g) (2), the product purported to be and was represented as canned cherries, a food for which a definition and standard of identity had been prescribed by the regulations, and its label failed to bear the name of the optional packing medium present, since the label bore the statement "Extra Heavy Syrup," whereas the article was packed in heavy sirup.

DISPOSITION: August 18, 1947. Pleas of guilty having been entered on behalf of the defendants, the corporation was fined \$5,000 and the individual defendant was fined \$2,000 and placed on 2 years' probation.

13116. Adulteration of canned cherries. U. S. v. 698 Cases * * *. (F. D. C. No. 24693. Sample No. 32236-K.)

LIBEL FILED: March 29, 1948, Eastern District of Pennsylvania.

ALLEGED SHIPMENT: On or about February 28, 1948, by the Escalon Packers, Inc., from Stockton, Calif.

PRODUCT: 698 cases, each containing 24 1-pound, 13-ounce cans, of cherries at Philadelphia, Pa.

LABEL, IN PART: "Mercato Brand Dark Sweet Cherries."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of moldy cherries.

DISPOSITION: June 14, 1948. Default decree of condemnation and destruction.

13117. Misbranding of canned cherries. U. S. v. 85 Cases * * *. (F. D. C. No. 24588. Sample Nos. 37326-K, 37330-K.)

LIBEL FILED: April 8, 1948, Western District of Washington.

ALLEGED SHIPMENT: On or about September 15, 1947, by the Paulus Bros. Packing Co., from Salem, Oreg.

PRODUCT: 85 cases, each containing 6 6-pound, 7-ounce cans, of cherries at Seattle, Wash.

LABEL, IN PART: "White Tag Red Sour Pitted Cherries."

NATURE OF CHARGE: Misbranding, Section 403 (h) (1), the product fell below the standard of quality for pitted canned cherries, since it contained more than one pit in each 20 ounces of cherries and it failed to bear the substandard legend.

DISPOSITION: May 4, 1948. The Paulus Bros. Packing Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond to be relabeled under the supervision of the Food and Drug Administration.

13118. Adulteration and misbranding of canned grapefruit. U. S. v. 2,806 Cases
* * *. (F. D. C. No. 24285. Sample No. 3640-K.)

LIBEL FILED: December 31, 1947, Eastern District of Virginia.

ALLEGED SHIPMENT: On or about September 2, 1947, by the Lee Co., Inc., from Valrico, Fla.

PRODUCT: 2,806 cases, each containing 24 1-pound, 4-ounce cans, of grapefruit at Norfolk, Va.

LABEL, IN PART: "Tampa Belle Florida Grapefruit Mostly Whole Sections in Medium Syrup * * * Distributed by Lee Growers Cooperative Tampa, Florida."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

Misbranding, Section 403 (a), the vignette on the label depicting grapefruit sections and the label statement "Grapefruit Mostly Whole Sections in Medium Syrup" were false and misleading, since the article consisted in part of grapefruit juice. (Examination showed the presence of decomposed grapefruit, and some of the cans contained grapefruit juice instead of grapefruit.)

DISPOSITION: March 30, 1948. Default decree of condemnation. The product was ordered delivered to a Federal institution, after segregation and destruction of the unfit portion, under the supervision of the Food and Drug Administration. As a result of the segregation, 169 cases of unfit material consisting of swells, flippers, and rusted or badly dented cans were destroyed.

13119. Adulteration and misbranding of canned peaches. U. S. v. Jones Brothers Canning Co., a corporation, and Oma F. Jones and Barnett W. Jones. Pleas of guilty. Fines of \$25 against each defendant. (F. D. C. No. 24076. Sample Nos. 54170-H, 55237-H, 55536-H, 55537-H.)

INFORMATION FILED: May 24, 1948, Western District of South Carolina, against the Jones Brothers Canning Co., a corporation, Greer, S. C., and Oma F. Jones and Barnett W. Jones.

ALLEGED SHIPMENT: On or about July 17 and August 10, 20, and 21, 1947, from the State of South Carolina into the States of North Carolina, Indiana, and Georgia.

PRODUCT: 4 shipments of canned peaches.

LABEL, IN PART: "Cedar Rock Brand [or "Greer Brand"]."

NATURE OF CHARGE: Adulteration (1 shipment), Section 402 (a) (3), the product consisted in part of a filthy substance by reason of the presence of worms and worm excreta.

Misbranding (2 shipments), Section 403 (h) (1), the product fell below the standard of quality prescribed by the regulations for canned peaches, since it failed to meet the test for tenderness; and (1 shipment), Section 403 (g) (2), it failed to bear, as prescribed by the regulations, the name of the optional packing medium present, since it was labeled "In Heavy Syrup" but was packed in light sirup.

DISPOSITION: May 24, 1948. Pleas of guilty having been entered on behalf of the defendants, the court imposed fines of \$25 against each defendant.

13120. Misbranding of canned peaches. U. S. v. 483 Cases * * *. (F. D. C. No. 24192. Sample Nos. 4131-K, 4135-K, 33207-K.)

LIBEL FILED: On December 18, 1947, District of Massachusetts.

ALLEGED SHIPMENT: On or about September 22, 1947, by the G. W. Hume Co. from Turlock, Calif.

PRODUCT: 483 cases, each containing 24 1-pound, 13-ounce cans, of peaches at South Boston, Mass.

LABEL, IN PART: "Isle O'Gold Sliced Elberta Freestone Yellow Peaches in Heavy Syrup * * * National Retailer-Owned Grocers, Inc. Distributors * * * Chicago, Ill."

NATURE OF CHARGE: Misbranding, Section 403 (g) (2), the product was canned peaches, a food for which a definition and standard of identity had been prescribed by the regulations, and its label failed to bear, as required by the regulations, the name of the optional packing medium present, since the label bore the statement "in Heavy Syrup," whereas the article was packed in light sirup.

DISPOSITION: April 26, 1948. The G. W. Hume Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond to be relabeled under the supervision of the Food and Drug Administration.

13121. Misbranding of canned peaches. U. S. v. 154 Cases * * *. (F. D. C. No. 23442. Sample No. 54438-H.)

LIBEL FILED: September 4, 1947, Middle District of Georgia.

ALLEGED SHIPMENT: On or about July 17, 1947, by the Greenville Canning Co., from Greenville, S. C.

PRODUCT: 154 cases, each containing 24 cans, of peaches at Milledgeville, Ga.

LABEL, IN PART: "Mid Summer Brand Yellow Freestone Peaches Halves in Heavy Syrup. Contents 1 Lb. 14 Oz."

NATURE OF CHARGE: Misbranding, Section 403 (e) (2), the product was in package form and failed to bear a label containing an accurate statement of the quantity of the contents. (The cans contained less than the declared weight.)

Further misbranding, Section 403 (g) (2), the label failed to bear the name of the optional packing medium present in the article, since it was labeled "in Heavy Syrup," whereas it was packed in light sirup.

DISPOSITION: September 30, 1947. The Greenville Canning Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond for relabeling under the supervision of the Federal Security Agency.

13122. Misbranding of canned peaches. U. S. v. 61 Cases * * *. (F. D. C. No. 24393. Sample No. 33242-K.)

LIBEL FILED: March 18, 1948, Eastern District of Pennsylvania.

ALLEGED SHIPMENT: On or about February 10, 1948, by Parrott & Co., from Stockton, Calif.

PRODUCT: 61 cases, each containing 24 1-pound, 13-ounce cans, of peaches at Philadelphia, Pa.

LABEL, IN PART: "Norris Ole Fashion Yellow Elberta Freestone Peaches in Extra Heavy Syrup."

NATURE OF CHARGE: Misbranding, Section 403 (g) (2), the product purported and was represented to be canned peaches, and its label failed to bear, as required by the definition and standard of identity, the name of the optional peach ingredient and the name of the optional packing medium used, since the label bore the statement "Yellow Freestone Peaches in Extra Heavy Syrup" and the cans contained yellow clingstone peaches in heavy sirup.

DISPOSITION: May 25, 1948. A. E. Turner & Co., Philadelphia, Pa., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond to be relabeled under the supervision of the Food and Drug Administration.

13123. Misbranding of canned peaches. U. S. v. 49 Cases * * *. (F. D. C. No. 23970. Sample No. 14710-K.)

LIBEL FILED: November 20, 1947, Northern District of Illinois.

ALLEGED SHIPMENT: On or about August 2, 1947, by Flotill Products, Inc., from Stockton, Calif.

PRODUCT: 49 cases, each containing 48 cans, of peaches at Chicago, Ill.

LABEL, IN PART: "Flotill Sliced [or "Halves"] Yellow Cling Peaches in Heavy Syrup Net Wt. 1 Lb."

NATURE OF CHARGE: Misbranding, Section 403 (g) (2), the product purported to be and was represented as canned peaches, a food for which a definition and standard of identity had been prescribed by the regulations, and the labels on some of the cans failed to bear the name of the optional packing medium present in the food, since the labels bore the statement "in Heavy Syrup" and a portion of the product was packed in light sirup.

DISPOSITION: April 16, 1948. Flotill Products, Inc., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond to be brought into compliance with the law, under the supervision of the Federal Security Agency.

13124. Misbranding of canned peaches. U. S. v. 48 Cases * * *. (F. D. C. No. 24644. Sample Nos. 32251-K, 32266-K.)

LIBEL FILED: May 19, 1948, Southern District of Ohio.

ALLEGED SHIPMENT: On or about April 27, 1948, by the Atwater Packing Co., Atwater, Calif.

PRODUCT: 48 cases, each containing 6 6-pound, 12-ounce cans, of peaches at Cincinnati, Ohio.

LABEL, IN PART: "Lazy Daisy Choice Halves Yellow Free Elberta Peaches In Heavy Syrup * * * Packed by Capolina Packing Co., Atwater, Calif."

NATURE OF CHARGE: Misbranding, Section 403 (g) (2), the article purported to be and was represented as canned peaches, a food for which a definition and standard of identity had been prescribed by the regulations, and its label failed to bear, as required by the regulations, the name of the optional packing medium present. The label bore the statement "In Heavy Syrup," whereas the article was packed in sirup designated as light sirup in the definition and standard.

DISPOSITION: June 23, 1948. The Atwater Packing Co., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be relabeled under the supervision of the Food and Drug Administration.

FROZEN FRUIT

13129. Adulteration of frozen strawberries. U. S. v. 100 Cans * * *. (F. D. C. No. 21698. Sample No. 51458-H.)

LIBEL FILED: November 15, 1946, District of Minnesota.

ALLEGED SHIPMENT: On or about August 3, 1946, by Carol Parker Frozen Foods, Inc., from Pasadena, Calif.

PRODUCT: 44 cases, each containing 33 14-ounce cartons, of frozen boysenberries at Minneapolis, Minn. The cartons contained approximately 7 ounces of boysenberries, with approximately 8 ounces of sugar solution.

LABEL, IN PART: "Carol Parker Fresh Frozen Boysenberries Sugar Added Syrup."

NATURE OF CHARGE: Adulteration, Section 403 (b) (2), water, or water and sugar, had been substituted in part for boysenberries.

DISPOSITION: February 20, 1947. Carol Parker Frozen Foods, Inc., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond, conditioned that it be repackaged under the supervision of the Federal Security Agency.

13126. Adulteration of frozen huckleberries. U. S. v. 35 Cartons * * * (and 1 other seizure action). (F. D. C. Nos. 24456, 24457. Sample Nos. 32223-K, 32381-K.)

LIBELS FILED: February 27, 1948, Northern District of California.

ALLEGED SHIPMENT: On or about November 5 and 21, 1947, by M. E. Mercer, from Tacoma, Wash.

PRODUCT: 35 cartons at San Jose, Calif., and 73 cartons at San Francisco, Calif., each carton containing 25 pounds of frozen huckleberries.

LABEL, IN PART: "Olympic Huckleberries."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insect fragments and larvae.

DISPOSITION: April 15, 1948. Default decrees of condemnation and destruction.

13127. Adulteration of frozen strawberries. U. S. v. 170 Cans * * *. (F. D. C. No. 24132. Sample No. 2626-K.)

LIBEL FILED: November 25, 1947, District of Columbia.

ALLEGED SHIPMENT: On or about October 27, 1947, by the Fussell-Young Ice Cream Co., from Baltimore, Md.

PRODUCT: 170 cans, each containing 45 pounds, of frozen strawberries at Washington, D. C.

LABEL, IN PART: "Lucas Quality Frozen Fruits Strawberries Net Wt. 45 Lbs. When Packed Packed by Maryland Packers, Baltimore, Md."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of rotten strawberries.

DISPOSITION: The Fussell-Young Ice Cream Co., Inc., appeared as claimant and petitioned for the entry of an order permitting the withdrawal of samples, which petition was granted. On May 27, the claimant having advised the court that no answer would be filed, judgment of condemnation and destruction was entered.

13128. Adulteration of frozen strawberries. U. S. v. 150 Cans * * *. (F. D. C. No. 23759. Sample No. 15001-K.)

LIBEL FILED: September 22, 1947, Northern District of Illinois.

ALLEGED SHIPMENT: On or about May 28, 1947, by Frigid Food Products, from Greenfield, Tenn.

PRODUCT: 150 30-pound cans of frozen strawberries at Chicago, Ill.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of moldy strawberries.

DISPOSITION: May 10, 1948. Default decree of condemnation and destruction.

13129. Adulteration of frozen strawberries. U. S. v. 100 Cans * * *. (F. D. C. No. 23692. Sample No. 85719-H.)

LIBEL FILED: September 9, 1947, District of Columbia.

ALLEGED SHIPMENT: On or about August 19, 1947, by the Baltimore Cold Storage Co., from Baltimore, Md.

PRODUCT: 100 50-pound cans of frozen strawberries at Washington, D. C.

LABEL, IN PART: "Value Brand Fresh Frozen Strawberries * * * Packed By Southern Packing Co., Inc. Baltimore 23, Md."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a decomposed substance by reason of the presence of rotten strawberries.

DISPOSITION: On September 15, 1947, the Southern Packing Co., Inc., claimant, alleging that it was the packer and shipper of the product, and having filed a motion to take samples, an order was entered authorizing withdrawal of samples. On April 26, 1948, no answer having been filed to the libel, judgment of condemnation and destruction was entered.

13130. Adulteration of frozen strawberry puree. U. S. v. 68 Barrels * * *. (F. D. C. No. 24724. Sample No. 4408-H.)

LIBEL FILED: April 15, 1948, Eastern District of Pennsylvania.

ALLEGED SHIPMENT: On or about October 19, 1944, by Abbott's Dairies, Inc., from Benton Harbor, Mich.

PRODUCT: 68 barrels, each containing 400 pounds, of frozen strawberry puree at Philadelphia, Pa.

LABEL, IN PART: "Strawberry Puree * * * Packed by Eastern Paper S Bon Boston, Mass."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of moldy and decomposed strawberry material.

DISPOSITION: May 25, 1948. Default decree of condemnation and destruction.

JELLY, PRESERVES, AND FRUIT BUTTERS

13131. Adulteration and misbranding of grape jelly. U. S. v. 234 Cases * * *.
(F. D. C. No. 24759. Sample No. 957-K.)

LIBEL FILED: May 6, 1948, Middle District of Georgia.

ALLEGED SHIPMENT: On or about March 24, 1948, by Martin's Foods, from Jacksonville, Fla.

PRODUCT: 234 cases, each containing 24 1-pound jars, of grape jelly at Sparks, Ga.

LABEL, IN PART: "M Martin's Pure Grape Jelly."

NATURE OF CHARGE: Adulteration, Section 402 (b) (1), a valuable constituent, grape juice, had been omitted.

Misbranding, Section 403 (g) (1), the product fell below the definition and standard of identity for grape jelly, since it was made from a mixture composed of less than 45 parts by weight of the fruit (grape) juice ingredient to each 55 parts by weight of the saccharine ingredient.

DISPOSITION: June 22, 1948. Default decree of condemnation. The product was ordered delivered to a Federal institution.

13132. Adulteration of strawberry preserves. U. S. v. 234 Cases * * *.
(F. D. C. No. 23774. Sample No. 82723-H.)

LIBEL FILED: On or about October 3, 1947, District of Montana.

ALLEGED SHIPMENT: On or about July 25, 1947, by Independence Cold Storage, from Independence, La.

PRODUCT: 234 cases, each containing 24 1-pound jars, of strawberry preserves at Great Falls, Mont.

LABEL, IN PART: "Colonial Pure Strawberry Preserves * * * Colonial Cannery, Inc., Independence, La."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance, as evidenced by the presence of mold.

DISPOSITION: December 3, 1947. Colonial Cannery, Inc., claimant, having admitted certain allegations in the libel, judgment was entered ordering the product released under bond to be brought into compliance with the law, under the supervision of the Food and Drug Administration. Approximately 18 cases of the seized product (actually 256 cases seized) were destroyed.

13133. Misbranding of preserved watermelon rind. U. S. v. 85 Cases * * *.
(F. D. C. No. 24114. Sample No. 9749-K.)

LIBEL FILED: November 20, 1947, Southern District of New York.

ALLEGED SHIPMENT: On or about October 6, 1947, by the Schaaf Preserving Co., from Miami, Fla.

PRODUCT: 85 cases, each containing 24 jars, of preserved watermelon rind at New York, N. Y.

LABEL, IN PART: "Royal Scarlet Contents 1-Pound Preserved Watermelon Rind Spiced and Pickled R. C. Williams & Co., Inc. Distributors, New York, N. Y."

NATURE OF CHARGE: Misbranding, Section 403 (e) (2), the article failed to bear a label containing an accurate statement of the quantity of the contents (the article was short-weight); and, Section 403 (i) (2), it was fabricated from two or more ingredients, and its label failed to bear the common or usual name of each such ingredient.

DISPOSITION: December 31, 1947. The Schaaf Preserving Co., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond for relabeling under the supervision of the Food and Drug Administration.

13134. Adulteration and misbranding of apple butter. U. S. v. 15 Cases, etc.
(F. D. C. No. 24851. Sample Nos. 6103-K, 6104-K.)

LIBEL FILED: May 19, 1948, Western District of Pennsylvania.

ALLEGED SHIPMENT: On or about February 6, 1948, by the Hancock Canning Co., Inc., from Hancock, Md.

PRODUCT: 15 cases and 3 cases, each case containing 12 jars, of apple butter at Altoona, Pa.

LABEL, IN PART: (Both lots) "Hanco Brand Apple Butter Contents 2 Lbs. 6 Ozs."; (3-case lot) "Artificial Grape Flavor * * * Added."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), a product of less than 43 percent soluble solids content and (3-case lot) containing artificial flavoring had been substituted for apple butter.

Misbranding, Section 403 (g) (1), the product failed to conform to the definition and standard of identity for apple butter, since the soluble-solids content was less than 43 percent and (3-case lot) it contained artificial flavoring, which is not permitted as an ingredient of apple butter.

DISPOSITION: June 29, 1948. Default decree of condemnation. The product was ordered delivered to a charitable institution.

13135. Adulteration and misbranding of apple butter. U. S. v. 74 Cases, etc.
(F. D. C. No. 24035. Sample No. 18733-K.)

LIBEL FILED: January 5, 1948, Western District of Kentucky.

ALLEGED SHIPMENT: On or about May 27, 1947, by the Brown Specialty Co., from Galesburg, Ill.

PRODUCT: 105 cases, each containing 24 1-pound, 2-ounce jars, of apple butter at Louisville, Ky.

LABEL, IN PART: "Adams Maid Brand Apple Butter Packed by Adams Apple Products Corp. Aspers, Penna."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), a product of less than 43 percent soluble solids content had been substituted for apple butter.

Misbranding, Section 403 (g) (1), the product failed to conform to the definition and standard of identity for apple butter, since the soluble-solids content of the product was less than 43 percent.

DISPOSITION: April 16, 1948. Default decree of condemnation. The product was ordered delivered to a charitable institution.

13136. Misbranding of apple butter. U. S. v. Adams Apple Products Corp. Plea of nolo contendere. Fine, \$400. (F. D. C. No. 23241. Sample Nos. 41949-H, 42064-H, 49914-H, 64029-H.)

INFORMATION FILED: September 29, 1947, Middle District of Pennsylvania, against the Adams Apple Products Corp., Aspers, Pa.

ALLEGED SHIPMENT: On or about July 24 and August 10, 12, and 26, 1946, from the State of Pennsylvania into the States of Virginia, Alabama, and Connecticut, and the District of Columbia.

LABEL, IN PART: "Adams Maid Brand * * * Apple Butter."

NATURE OF CHARGE: Misbranding, Section 403 (g) (1), the product failed to conform to the definition and standard of identity for apple butter, since it had not been concentrated by heat to such point that the soluble solids content of the finished product was not less than 43 percent.

DISPOSITION: October 27, 1947. A plea of nolo contendere having been entered, a fine of \$400 was imposed.

MISCELLANEOUS FRUIT AND FRUIT PRODUCTS*

13137. Adulteration of cherries in brine. U. S. v. Hudson Duncan & Co. Plea of guilty. Fine, \$1,500. (F. D. C. No. 21508. Sample Nos. 52462-H, 52939-H.)

INFORMATION FILED: January 2, 1947, District of Oregon, against Hudson Duncan & Co., a corporation, Dundee, Oreg.

ALLEGED SHIPMENT: On or about March 26 and April 3, 1946, from the State of Oregon into the State of Kentucky.

LABEL, IN PART: "Pride of Oregon Brand * * * Royal Anne Cherries."

*See also Nos. 13002, 13053.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a filthy substance by reason of the presence of maggots.

DISPOSITION: November 14, 1947. A plea of guilty having been entered, the defendant was fined \$1,500.

13138. Adulteration of fig paste and figs. U. S. v. Roeding Fig Co. Plea of guilty. Fine of \$250 on each of counts 1 and 2; suspended sentence on count 3. (F. D. C. No. 21561. Sample Nos. 5710-H, 14858-H, 21579-H.)

INFORMATION FILED: October 7, 1947, Southern District of California, against the Roeding Fig Co., Fresno, Calif.

ALLEGED SHIPMENT: On or about January 12, November 14, and December 7, 1945, from the State of California into the States of Illinois, New Jersey, and Nebraska.

LABEL, IN PART: "Mecca Brand Fig Paste," or "Arabian Brand White Figs."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the fig paste consisted in part of a filthy substance by reason of the presence of whole insects, insect heads, larvae, larvae heads, worm fragments, and insect fragments; the figs consisted in part of a filthy and decomposed substance by reason of the presence of insect-infested, moldy, and sour figs.

DISPOSITION: October 20, 1947. A plea of guilty having been entered on behalf of the defendant, a fine of \$250 on each of counts 1 and 2 was imposed. Sentence was suspended on count 3 for 3 years, conditioned that there be no further violation of the Federal Food, Drug, and Cosmetic Act.

13139. Adulteration of spiced olives. U. S. v. 9 Cases, etc. (F. D. C. No. 24014. Sample Nos. 36514-K to 36516-K, incl., 36519-K.)

LIBEL FILED: December 16, 1947, District of Oregon.

ALLEGED SHIPMENT: On or about August 16, 1946, by the Globe Sales Co., from San Francisco, Calif.

PRODUCT: 549 cases, each containing 24 9-ounce jars, of olives at Portland, Oreg.

LABEL, IN PART: "Valley Bloom * * * Natural Ripe Calimata Style California Spiced Olives [or "Ripe Calimata Style Spiced Olives," or "Calispice California Green Olives Spiced"]."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

DISPOSITION: April 6, 1948. Default decree of condemnation and destruction.

13140. Adulteration of watermelon rind pickle. U. S. v. 39 Cartons * * *. (F. D. C. No. 22749. Sample No. 64283-H.)

LIBEL FILED: April 2, 1947, Southern District of New York.

ALLEGED SHIPMENT: On or about August 16 and 17, 1946, by the Gerry & Charles Co., from St. Petersburg, Fla.

PRODUCT: 39 cartons, each containing 12 1-pound, 9-ounce jars, of watermelon rind pickle at New York, N. Y.

LABEL, IN PART: "Sunshine Pickled Watermelon Rind."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance. (The product was fermented.)

DISPOSITION: April 23, 1947. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

13141. Adulteration and misbranding of wine vinegar. U. S. v. Anthony Grieco (Paramount Vinegar Sales Co.). Plea of guilty. Fine, \$300. (F. D. C. No. 22033. Sample Nos. 5320-H, 6537-H, 42834-H, 42835-H.)

INFORMATION FILED: November 17, 1947, Southern District of New York, against Anthony Grieco, trading as the Paramount Vinegar Sales Co., New York, N. Y.

ALLEGED SHIPMENT: On or about March 20 and 26 and April 16, 1946, from the State of New York into the States of New Jersey, Maryland, and Pennsylvania.

LABEL, IN PART: "Quality Paramount Brand * * * Pure Wine Vinegar."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), a mixture consisting mainly of distilled vinegar had been substituted in whole or in part for wine vinegar; and, Section 402 (b) (4), distilled vinegar or acetic acid had been mixed and packed with the article so as to reduce its quality and strength.

Misbranding, Section 403 (a), the label statement "Pure Wine Vinegar" was false and misleading, since the product did not consist entirely of wine vinegar but consisted of a mixture comprised mainly of distilled vinegar.

DISPOSITION: November 20, 1947. A plea of guilty having been entered, the defendant was fined \$300.

VEGETABLES AND VEGETABLE PRODUCTS

13142. Misbranding of frozen asparagus. U. S. v. 25 Cases * * *. (F. D. C. No. 24215. Sample No. 4136-K.)

LIBEL FILED: December 26, 1947, District of Massachusetts.

ALLEGED SHIPMENT: On or about February 6, 1947, by Atlas Foods, Inc., from New York, N.Y.

PRODUCT: 25 cases, each containing 36 12-ounce boxes, of frozen asparagus at Boston, Mass.

LABEL, IN PART: "Berry Brand Asparagus * * * Marvin Berry Co. * * * Bakersfield, California."

NATURE OF CHARGE: Misbranding, Section 403 (a), the vignette on the label depicting whole asparagus spears was false and misleading, since the product consisted of either asparagus spears cut in short pieces, or cut lower portions of asparagus stalks with tips mostly removed.

DISPOSITION: March 1, 1948. Default decree of condemnation. The product was ordered delivered to a charitable institution.

13143. Adulteration of canned green beans. U. S. v. Alma Canning Co. Plea of nolo contendere. Fine, \$100. (F. D. C. No. 23295. Sample Nos. 38594-H, 38595-H.)

INFORMATION FILED: July 11, 1947, Western District of Arkansas, against the Alma Canning Co., a corporation, Alma, Ark.

ALLEGED SHIPMENT: On or about October 12, 1946, from the State of Arkansas into the State of Illinois.

LABEL, IN PART: "Alma Select Whole Green Beans Blue Lake," or "Alma Brand Extra Standard Whole Green Beans."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a filthy substance by reason of the presence of worms, insect excreta, and insect-damaged beans.

DISPOSITION: November 5, 1947. A plea of nolo contendere having been entered, the defendant was fined \$100.

13144. Adulteration of canned corn. U. S. v. 176 Cases * * *. (F. D. C. No. 24361. Sample Nos. 9367-K, 9368-K.)

LIBEL FILED: March 4, 1948, Southern District of New York.

ALLEGED SHIPMENT: On or about December 16, 1947, by Libby, McNeill & Libby, from Chicago, Ill.

PRODUCT: 176 cases, each containing 24 1-pound, 4-ounce cans, of corn at Bronx, N.Y.

LABEL, IN PART: "Libby's Country Gentleman White Sweet Corn Cream Style."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insect fragments.

DISPOSITION: March 30, 1948. Default decree of condemnation and destruction.

13145. Adulteration of canned mustard greens. U. S. v. 45 Cases * * *. (F. D. C. No. 24451. Sample No. 22832-K.)

LIBEL FILED: February 25, 1948, Western District of Louisiana.

ALLEGED SHIPMENT: On or about July 9, 1945, by the E. L. Peterson Canning Co., Sallisaw, Okla.

PRODUCT: 45 cases, each containing 6 6-pound, 2-ounce cans, of mustard greens at Alexandria, La.

LABEL, IN PART: "El-Pete Mustard Greens."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of aphids, thrips, and other insects; and, Section 402 (b) (2), grass had been substituted in part for mustard greens.

DISPOSITION: April 26, 1948. Default decree of condemnation and destruction.

13146. Adulteration of dried mushrooms. U. S. v. 11 Crates * * *. (F. D. C. No. 24595. Sample No. 31726-K.)

LIBEL FILED: April 9, 1948, Southern District of California.

ALLEGED SHIPMENT: On or about March 18, 1948, by the Mondial Co., Inc., from New York, N. Y.

PRODUCT: 11 25-pound crates of dried mushrooms at Los Angeles, Calif.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of larvae and other insects.

DISPOSITION: May 4, 1948. Default decree of condemnation and destruction.

13147. Adulteration of canned black-eyed peas. U. S. v. 663 Cases * * * (and 1 other seizure action). (F. D. C. Nos. 24504, 24691. Sample Nos. 136-K, 137-K.)

LIBELS FILED: On or about March 24 and April 5, 1948, Northern and Middle Districts of Georgia.

ALLEGED SHIPMENT: On or about February 6 and 18, 1948, by the J. C. La Rue Co., from Meridian, Miss.

PRODUCT: Black-eyed peas. 663 cases at Thomasville, Ga., and 438 cases at Atlanta, Ga. Each case contained 24 1-pound, 4-ounce cans.

LABEL, IN PART: "Old Black Joe Black Eyed Peas."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a filthy substance by reason of the presence of larvae and other insects.

Thomasville lot. Misbranding, Section 403 (g) (1), the product failed to conform to the definition and standard of identity for canned black-eyed peas, since the regulations provide that the vegetable ingredient is obtained by proper preparation from the succulent vegetable, whereas the article was prepared from dried black-eyed peas.

DISPOSITION: May 10 and 13, 1948. Default decrees of condemnation. The Thomasville lot was ordered delivered to an institution, for use as hog feed, and the Atlanta lot was ordered destroyed.

13148. Adulteration of canned field peas and canned field peas with snaps. U. S. v. Cherokee Products Co. Plea of nolo contendere. Fine, \$500. (F. D. C. No. 23274. Sample Nos. 54233-H, 54234-H, 54579-H, 54580-H, 54593-H, 54802-H.)

INFORMATION FILED: July 1, 1947, Middle District of Georgia, against the Cherokee Products Co., a partnership, Haddock, Ga.

ALLEGED SHIPMENT: On or about July 18, 19, and 25, and August 20, 22, and 29, 1946, from the State of Georgia into the States of Florida and North Carolina.

LABEL, IN PART: "O'sage Brand."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the products consisted in part of filthy substances by reason of the presence of larvae.

DISPOSITION: October 16, 1947. A plea of nolo contendere having been entered, a fine of \$500 was imposed.

13149. Adulteration of canned field peas. U. S. v. 75 Cases * * *. (F. D. C. No. 24705. Sample No. 245-K.)

LIBEL FILED: April 9, 1948, Western District of South Carolina.

ALLEGED SHIPMENT: On or about March 8, 1948, by Colonial Stores, Inc., Whse., from Atlanta, Ga.

PRODUCT: 75 cases, each containing 24 1-pound, 3-ounce cans, of field peas at Greenville, S. C.

LABEL, IN PART: "Shaver's Brand Dried Soaked Field Peas * * * Packed by Georgia Canning Co. Wayside, Georgia."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of larvae and other insects.

DISPOSITION: June 3, 1948. Default decree of condemnation. The product was ordered delivered to a charitable institution, for use as animal feed.

Nos. 13150 to 13154 report actions involving canned peas that purported to be a food for which a standard of quality has been prescribed by law, but the quality was charged to fall below the standard because of higher alcohol-insoluble solids than the maximum permitted by the standard, and the labels failed to bear, in the manner and form that the regulations specify, a statement that the product was below the standard.

13150. Misbranding of canned peas. U. S. v. 1,298 Cases * * *. (F. D. C. No. 22488. Sample No. 50164-H.)

LIBEL FILED: February 6, 1947, Southern District of Texas.

ALLEGED SHIPMENT: On or about November 1, 1946, by the Lancaster Canning Co., from Lancaster, Wis.

PRODUCT: 1,298 cases, each containing 24 1-pound, 4-ounce cans, of peas at Houston, Tex.

LABEL, IN PART: "Early Peas Sunbeam * * * Francis H. Leggett & Co. New York, N. Y."

NATURE OF CHARGE: Misbranding, Section 403 (h) (1), the product was below standard.

DISPOSITION: March 10, 1947. The Lancaster Canning Co., claimant, having admitted that the product was misbranded, judgment of condemnation was entered and the product was ordered released under bond to be relabeled under the supervision of the Food and Drug Administration.

13151. Misbranding of canned peas. U. S. v. 377 Cases * * * (and 3 other seizure actions). (F. D. C. Nos. 22667, 22708, 23139, 23203. Sample Nos. 42116-H, 54139-H, 54157-H, 68163-H.)

LIBELS FILED: On March 4 and 26, May 21, and July 2, 1947, Southern District of West Virginia, Southern District of Indiana, and District of Kansas.

ALLEGED SHIPMENT: On August 19 and December 5, 1946, and January 27, 1947, by Libby, McNeill & Libby, from Leipsic, Ohio, and Eureka, Ill.

PRODUCT: Canned peas. 377 cases at Huntington, W. Va., 209 cases at Indianapolis, Ind., and 232 cases at Hutchinson, Kans. Each case contained 24 1-pound, 4-ounce cans.

LABEL, IN PART: "Happy-Vale Garden Early Peas * * * Emery Food Co. Chicago, Illinois Distributors."

NATURE OF CHARGE: Misbranding, Section 403 (h) (1), the product was below standard.

DISPOSITION: May 22, June 16, and December 4, 1947. Libby, McNeill & Libby having appeared as claimant, judgments of condemnation were entered and the product was ordered released under bond to be relabeled under the supervision of the Food and Drug Administration.

13152. Misbranding of canned peas. U. S. v. 348 Cases * * * (and 2 other seizure actions). (F. D. C. Nos. 20422, 22175, 22176. Sample Nos. 43106-H, 53821-H, 53898-H.)

LIBELS FILED: July 24, 1946, and January 10, 1947, Southern District of West Virginia and Eastern District of Kentucky.

ALLEGED SHIPMENT: On or about June 24 and 27, 1946, by the H. J. McGrath Co., from Baltimore, Md.

PRODUCT: Canned peas. 348 cases at Bradshaw, W. Va., 111 cases at Lexington, Ky., and 88 cases at Winchester, Ky. Each case contained 24 1-pound, 4-ounce cans.

LABEL, IN PART: "McGrath's Champion Brand * * * Early June Peas."

NATURE OF CHARGE: Misbranding, Section 403 (h) (1), the product was below standard.

DISPOSITION: September 23, 1946, and February 13, 1947. The H. J. McGrath Co. having appeared as claimant, judgments of condemnation were entered and the product was ordered released under bond to be relabeled under the supervision of the Food and Drug Administration.

13153. Misbranding of canned peas. U. S. v. 105 Cases * * * (and 2 other seizure actions). (F. D. C. Nos. 21341, 21343, 22776. Sample Nos. 43130-H, 43132-H, 83019-H.)

LIBELS FILED: October 22 and 29, 1946, and March 27, 1947, Western District of Virginia and Eastern District of Tennessee.

ALLEGED SHIPMENT: On or about August 9 and 15, 1946, by the Chilton Canning Co., from Chilton, Wis.

PRODUCT: Canned peas. 105 cases at Bristol, Va., 122 cases at Bristol, Tenn., and 152 cases at Johnson City, Tenn., each case containing 24 1-pound, 4-ounce cans.

LABEL, IN PART: "Little Sailor Wisconsin Early June Peas."

NATURE OF CHARGE: Misbranding, Section 403 (h) (1), the article was below standard.

DISPOSITION: November 25, 1946, and January 29 and June 14, 1947. The sole intervener for the Bristol, Va., lot having consented to the entry of a decree, and no claimant having appeared for the remaining lots, judgments of condemnation were entered and the product was ordered delivered to charitable institutions.

13154. Misbranding of canned peas. U. S. v. 219 Cases * * *. (F. D. C. No. 21250. Sample No. 1954-H.)

LIBEL FILED: October 25, 1946, Southern District of Georgia.

ALLEGED SHIPMENT: On or about August 26, 1946, by the Friday Canning Corp. from New Richmond, Wis.

PRODUCT: 219 cases, each containing 24 1-pound, 4-ounce cans, of peas at Augusta, Ga.

LABEL, IN PART: "St. Croix County * * * Early June Peas."

NATURE OF CHARGE: Misbranding, Section 403 (h) (1), the product was below standard.

DISPOSITION: December 21, 1946. The Friday Canning Corp., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond to be relabeled under the supervision of the Food and Drug Administration.

13155. Adulteration of pickles. U. S. v. 11 Cases * * *. (F. D. C. No. 24400. Sample No. 36140-K.)

LIBEL FILED: January 8, 1948, District of Oregon.

ALLEGED SHIPMENT: On or about October 8, 1946, by Nalley's, Inc., from Tacoma Wash.

PRODUCT: 11 cases, each containing 12 1-pound, 8-fluid-ounce jars, of pickles at Baker, Oreg.

LABEL, IN PART: "Nalley's * * * Banquet Pickles."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of dirty pickles.

DISPOSITION: March 9, 1948. Default decree of condemnation and destruction.

13156. Adulteration of sweet gherkin pickles. U. S. v. 12 Cases * * *. (F. D. C. No. 24725. Sample No. 335-K.)

LIBEL FILED: April 19, 1948, Northern District of Florida.

ALLEGED SHIPMENT: On or about October 24, 1947, and March 13, 1948, by the Cairo Pickle Co., from Cairo, Ga.

PRODUCT: 12 cases, each containing 24 jars, of sweet gherkin pickles at Quincy, Fla.

LABEL, IN PART: "Cairo Beauties Sweet Gherkins 12 Fl. Oz."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product was unfit for food by reason of the presence of grit.

DISPOSITION: June 1, 1948. Default decree of condemnation. The product was ordered delivered to a public institution, for use as hog feed or destroyed.

13157. Misbranding of canned pimientos. U. S. v. Levertton-California Corp. Plea of nolo contendere. Fine, \$500. (F. D. C. No. 23569. Sample Nos. 44716-H, 44722-H.)

INFORMATION FILED: September 30, 1947, Southern District of California, against the Levertton-California Corp., Los Angeles, Calif.

ALLEGED SHIPMENT: On or about November 9 and December 31, 1946, from the State of California into the State of Arizona.

LABEL, IN PART: "World Over Fancy Pimientos."

NATURE OF CHARGE: Misbranding, Section 403 (g) (1), the product failed to conform to the definition and standard of identity for canned pimientos, since it had not been processed by heat so as to prevent spoilage.

DISPOSITION: October 20, 1947. A plea of nolo contendere having been entered, a fine of \$500 was imposed.

13158. Adulteration of dehydrated potatoes. U. S. v. 112 Cartons * * *. (F. D. C. No. 24115. Sample Nos. 9601-K, 9602-K.)

LIBEL FILED: November 21, 1947, Eastern District of New York.

ALLEGED SHIPMENT: On or about October 30, 1947, by the Hygrade Food Products Corp., from Boston, Mass.

PRODUCT: 112 52-pound cartons of dehydrated potatoes at Brooklyn, N. Y.

LABEL, IN PART: "Baxters Finest Dehydrated Diced Maine Potatoes H C Baxter & Bro Brunswick Maine."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent pellets.

DISPOSITION: February 27, 1948. Default decree of condemnation and destruction.

13159. Adulteration of canned spinach. U. S. v. 1,286 Cases * * *. (F. D. C. No. 22364. Sample No. 25076-H.)

LIBEL FILED: January 7, 1947, Southern District of Mississippi.

ALLEGED SHIPMENT: On or about June 21 and July 18, 1946, by the Whiteside Cannery, from South Fort Smith, Ark.

PRODUCT: 1,286 cases, each containing 24 1-pound, 2-ounce cans, of spinach at Columbia, Miss.

LABEL, IN PART: "Gulf Kist Brand."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

DISPOSITION: April 12, 1948. The Dorgan Packing Corp., Columbia, Miss., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond for segregation of the fit from the unfit portion, under the supervision of the Food and Drug Administration.

TOMATOES AND TOMATO PRODUCTS

13160. Misbranding of canned tomatoes. U. S. v. 297 Cases * * *. (F. D. C. No. 24440. Sample No. 22827-K.)

LIBEL FILED: February 23, 1948, Western District of Louisiana.

ALLEGED SHIPMENT: On or about July 23, 1947, by the Alto Canning Co., from Alto, Tex.

PRODUCT: 297 cases, each containing 24 1-pound, 3-ounce cans, of tomatoes at Lake Charles, La.

LABEL, IN PART: Mr. Gus Tomatoes * * * Packed for Jacksonville Canneries, Jacksonville, Texas."

NATURE OF CHARGE: Misbranding, Section 403 (h) (1), the product fell below the standard of quality for canned tomatoes, since it contained excessive peel and did not bear the substandard legend.

DISPOSITION: May 18, 1948. Default decree of condemnation. The product was ordered delivered to a charitable institution.

13161. Adulteration of tomato catsup. U. S. v. 197 Cases * * * (and 5 other seizure actions). (F. D. C. Nos. 22383, 24426, 24433, 24444, 24455, 24455-A. Sample Nos. 73428-H, 14526-K, 15032-K, 19253-K, 24602-K.)

LIBELS FILED: Between January 14, 1947, and March 1, 1948, District of Minnesota, Western District of Wisconsin, Northern District of Ohio, Northern District of Illinois, and Eastern District of Michigan.

ALLEGED SHIPMENT: Between the approximate dates of November 14, 1946, and January 27, 1948, by the Fettig Canning Corp., from Elwood, Ind., and Carnegie, Pa.

PRODUCT: Tomato catsup. 197 cases, each containing 6 No. 10 cans, at St. Paul, Minn.; 71 cases, 1,750 cases, 550 cases, 49 cases, and 1,200 cases, each containing 24 14-ounce bottles, at Stevens Point, Wis., Cleveland, Ohio, Chicago, Ill., and Flint and Detroit, Mich., respectively.

LABEL, IN PART: "Serve-Well [or "Mary's Choice," or "Vine-Ripe"] Tomato Catsup."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of decomposed tomato material.

DISPOSITION: Between March 30, 1947, and May 13, 1948. Default decrees of condemnation. With respect to the St. Paul and Stevens Point lots, the decrees provided that the product be denatured and disposed of for purposes other than human consumption; otherwise, that it be destroyed. The remaining lots were ordered destroyed.

13162. Adulteration of tomato catsup. U. S. v. 328 Cases * * *. (F. D. C. No. 24468. Sample No. 15131-K.)

LIBEL FILED: March 8, 1948, Northern District of Illinois.

ALLEGED SHIPMENT: On or about January 26, 1948, by the Montpelier Food Products Corp., from Montpelier, Ind.

PRODUCT: 328 cases, each containing 24 14-ounce bottles, of tomato catsup at Chicago, Ill.

LABEL, IN PART: "Cherry Valley Tomato Catsup."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of decomposed tomato material.

DISPOSITION: May 3, 1948. Default decree of condemnation and destruction.

13163. Adulteration and misbranding of tomato puree. U. S. v. North American Canning Co. Plea of nolo contendere. Fine, \$500. (F. D. C. No. 22077. Sample Nos. 90614-H, 90945-H.)

INFORMATION FILED: June 2, 1947, Southern District of Florida, against the North American Canning Co., a corporation, Dania, Fla.

ALLEGED SHIPMENT: On or about December 10, 1946, from the State of Florida into the State of North Carolina.

LABEL, IN PART: "Sun Charm Brand Tomato Puree."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a filthy substance by reason of the presence of fly eggs and larvae, and of a decomposed substance by reason of the presence of decomposed tomato material.

Misbranding, Section 403 (g) (1), the product failed to conform to the definition and standard of identity for tomato puree, since it contained less than 8.37 percent of salt-free tomato solids.

DISPOSITION: October 24, 1947. A plea of nolo contendere having been entered on behalf of the defendant, a fine of \$500 was imposed.

13164. Adulteration and misbranding of tomato puree. U. S. v. 1,055 Cases
* * *. (F. D. C. No. 20765. Sample No. 54558-H.)

LIBEL FILED: August 29, 1946, Northern District of Georgia.

ALLEGED SHIPMENT: On or about July 5, 1946, by the Northwestern Canning & Packing Co., from Seffner, Fla.

PRODUCT: 1,055 cases, each containing 24 1-pound, 3-ounce cans, of tomato puree at Griffin, Ga.

LABEL, IN PART: "Old Glory Brand Tomato Puree."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of decomposed tomato material.

Misbranding, Section 403 (g) (1), the product failed to conform to the definition and standard of identity for tomato puree, since it contained less than 8.37 percent of salt-free tomato solids.

DISPOSITION: September 16, 1947. The sole intervener having withdrawn his claim, judgment of condemnation was entered and the product was ordered destroyed.

13165. Adulteration of tomato puree. U. S. v. 160 Cases * * *. (F. D. C. No. 24632. Sample No. 27168-K.)

LIBEL FILED: May 11, 1948, Southern District of Illinois.

ALLEGED SHIPMENT: On or about October 14, 1947, by the Sweetser Packing Co., from Sweetser, Ind.

PRODUCT: 160 cases, each containing 6 6-pound, 6-ounce cans, of tomato puree at Decatur, Ill.

LABEL, IN PART: "Sweetser Brand Tomato Puree."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of decomposed tomato material.

DISPOSITION: June 7, 1948. Default decree of condemnation and destruction.

13166. Adulteration of canned tomato paste and tomato sauce and misbranding of canned fruit cocktail. U. S. v. Hunt Foods, Inc. Plea of nolo contendere. Fine, \$600. (F. D. C. No. 21519. Sample Nos. 27876-H, 29514-H, 30780-H, 37434-H, 45539-H, 46612-H, 46801-H.)

INFORMATION FILED: February 5, 1947, Northern District of California, against Hunt Foods, Inc., Hayward, Calif.

ALLEGED VIOLATIONS: The defendant shipped adulterated tomato sauce and tomato paste and misbranded fruit cocktail between the approximate dates of August 10, 1945, and April 2, 1946, from the State of California into the States of Washington, Nevada, and Montana, and the Territory of Puerto Rico. In addition the defendant was charged with giving a false guaranty. The guaranty was given to Better Buy Wholesale Grocers, of Fresno, Calif., on or about August 13, 1945, and provided that the article comprising each shipment or delivery made by the defendant to the latter firm would be neither adulterated nor misbranded within the meaning of the Federal Food, Drug, and Cosmetic Act. On or about December 10, 1945, the defendant sold and delivered to Better Buy Wholesale Grocers a number of cans of tomato sauce which was adulterated. On or about December 10, 1945, the Better Buy Wholesale Grocers sold the cans of tomato sauce to the Banton Corporation, of San Francisco, Calif.; and on or about December 18, 1945, the Banton Corporation shipped the tomato sauce from California to San Juan, Puerto Rico.

LABEL, IN PART: "Hunt's * * * Fancy Spanish Style Tomato Sauce," "C. H. S. California Tomato Paste * * * Made by California Conserving Co. Incorporated San Francisco, California," or "Val Vita Fancy Brand Fruit Cocktail * * * Packed for Val Vita Food Co. Main Office San Francisco, California."

NATURE OF CHARGE: Tomato sauce and tomato paste. Adulteration, Section 402 (a) (3), the products consisted in part of decomposed substances by reason of the presence of decomposed tomato material.

Fruit cocktail, 1 lot. Misbranding, Section 403 (a), the label statement "Fancy" was false and misleading, since the product was not of fancy quality, because of the presence of pear core, stems, and peel, and because of an excessive percentage by weight of peach and pear units which were off-size or -shape. Further misbranding, Section 403 (h) (1), the product failed to conform to the standard of quality for canned fruit cocktail, since it contained excessive pear peel; the cherry ingredient was excessively blemished; the product contained units of peach and pear in excess of the size, and varying in shape, from that permitted for canned fruit cocktail; and it failed to bear the substandard legend.

Fruit cocktail, remaining lot. Misbranding, Section 403 (h) (2), the product fell below the standard of fill of container for canned fruit cocktail, since the fill of container of the food was less than 65 percent of the water capacity of the container.

DISPOSITION: October 24, 1947. A plea of nolo contendere having been entered, the defendant was fined \$600.

13167. Adulteration of tomato sauce. U. S. v. 1,399 Cases * * *. (F. D. C. No. 15600. Sample No. 17703-H.)

LIBEL FILED: March 19, 1945, Northern District of Illinois.

ALLEGED SHIPMENT: On or about November 27, 1944, by the Western California Cannery, Inc., from Antioch, Calif.

PRODUCT: 1,399 cases, each containing 72 8-ounce cans, of tomato sauce at Chicago, Ill.

LABEL, IN PART: "S and W Tomato Sauce Spanish Style"

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of decomposed tomato material.

DISPOSITION: June 14, 1945. Default decree of condemnation and destruction.

13168. Adulteration of tomato soup. U. S. v. Morgan Packing Co. Plea of guilty. Fine, \$2,000. (F. D. C. No. 23292. Sample Nos. 1958-H, 53197-H, 53347-H, 53348-H.)

INFORMATION FILED: August 8, 1947, Southern District of Indiana, against the Morgan Packing Co., a partnership, Austin, Ind.

ALLEGED SHIPMENT: Between the approximate dates of September 17 and October 7, 1946, from the State of Indiana into the States of South Carolina and Ohio.

LABEL, IN PART: "Jackson Brand Condensed Tomato Soup."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a decomposed substance by reason of the presence of decomposed tomato material.

DISPOSITION: April 30, 1948. A plea of guilty having been entered on behalf of the defendant, the court imposed a fine of \$2,000.

NUTS AND NUT PRODUCTS

13169. Adulteration of brazil nuts. U. S. v. 16 Bags * * * (and 12 other seizure actions). (F. D. C. Nos. 21733, 21772, 21773, 21808 to 21811, incl., 21864, 21964, 21988, 21992, 23952, 24136. Sample Nos. 53972-H, 60076-H, 60522-H, 60524-H, 60525-H, 60529-H to 60532-H, incl., 65452-H, 65455-H, 65459-H, 2205-K, 12006-K.)

LIBELS FILED: Between November 21, 1946, and November 26, 1947, Eastern, Middle, and Western Districts of Pennsylvania, Western District of Kentucky, and District of Maryland.

ALLEGED SHIPMENT: Between the approximate dates of September 20, 1946, and October 30, 1947, by Wm. A. Higgins & Co., Inc., from New York, N. Y.

PRODUCT: Brazil nuts. 675 100-pound bags, 42 40-pound baskets, 39 40-pound bags, and 84 40-pound boxes at Pittsburgh, Erie, Philadelphia, and Harrisburg, Pa., Louisville, Ky., and Baltimore, Md.

LABEL, IN PART: "Holly Brand * * * Brazil Nuts."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), all lots consisted in whole or in part of a decomposed substance by reason of the presence of moldy, rancid, and decomposed nuts; some lots consisted also of a filthy substance by reason of the presence of insect-infested nuts, and some lots were otherwise unfit for food by reason by the presence of empty shells.

DISPOSITION: January 3, 1947. No claimant having appeared for 47 bags and baskets of the product at Pittsburgh and 15 baskets at Erie, judgments of condemnation were entered and the product was ordered destroyed. Between December 17, 1946, and December 16, 1947, Wm. A. Higgins & Co., Inc., claimant for the remaining lots, having consented to the entry of decrees, judgments of condemnation were entered and the product was ordered released under bond for segregation and destruction of the unfit portion, under the supervision of the Food and Drug Administration.

13170. Adulteration and misbranding of peanut butter and adulteration of prepared mustard. U. S. v. 11 Cases, etc. (and 1 other seizure action). (F. D. C. Nos. 23822, 24173. Sample Nos. 214-K, 637-K, 18712-K to 18714-K, incl.)

LABELS FILED: On or about October 23 and December 19, 1947, Western District of Kentucky and Northern District of Georgia.

ALLEGED SHIPMENT: Between the approximate dates of August 4 and September 26, 1947, by the Fletcher-Wilson Coffee Co., from Nashville, Tenn.

PRODUCT: 37 cases, each containing 24 1-pound jars, 19 cases, each containing 24 8½-ounce jars, and 23 cases, each containing 12 2-pound jars, of peanut butter, and 4 cases, each containing 24 1-gallon jars, of prepared mustard at Franklin, Ky.; and 11 cases, each containing 24 1-pound jars, of peanut butter, and 9 cases, each containing 12 2-pound jars, of prepared mustard at La Fayette, Ga.

LABEL, IN PART: (Portions) "Luxury Peanut Butter 1 Lb. Net," "Luxury Peanut Butter Nutty Grind," or "Justice Prepared Mustard and Mustard Bran."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the products consisted in part of filthy substances by reason of the presence of insect fragments, rodent hair fragments, and rodent excreta fragments; and, Section 402 (a) (4), they had been prepared under insanitary conditions whereby they may have become contaminated with filth.

Misbranding, Section 403 (e) (2), (11-case lot of peanut butter at La Fayette, Ga.) the product failed to bear a label containing an accurate statement of the quantity of the contents. (The product was labeled "1 Lb. Net," whereas the jars contained less than 1 pound.)

DISPOSITION: February 4 and March 1, 1948. Decrees of condemnation and destruction.

13171. Misbranding of peanut butter. U. S. v. 5 Cases * * *. (F. D. C. No. 24502. Sample No. 26049-K.)

LABEL FILED: March 22, 1948, Eastern District of Missouri.

ALLEGED SHIPMENT: On or about January 20, 1948, by the J. H. Erbrich Products Co., from Indianapolis, Ind.

PRODUCT: 5 cases, each containing 12 jars, of peanut butter at St. Louis, Mo.

LABEL, IN PART: "Laurel Brand Peanut Butter Net. Wt. 2 Lb."

NATURE OF CHARGE: Misbranding, Section 403 (e) (2), the article failed to bear a label containing an accurate statement of the quantity of the contents. (The article was short-weight.)

DISPOSITION: April 21, 1948. Default decree of condemnation. The product was ordered delivered to a charitable institution.

13172. Adulteration of pecan meats. U. S. v. Marion H. Felder, plant manager of the Orangeburg Pecan Co. Plea of guilty. Sentence of 240 days' imprisonment and fine of \$1,200. Upon payment of fine, jail sentence suspended and defendant placed on 1 year's probation. (F. D. C. No. 21553. Sample Nos. 1913-H, 4656-H, 8996-H, 41754-H.)

INFORMATION FILED: April 14, 1947, Eastern District of South Carolina, against Marion H. Felder, plant manager of the Orangeburg Pecan Co., Orangeburg, S. C.

ALLEGED SHIPMENT: On or about October 19, 1945, and March 13 and 23 and April 19, 1946, from the State of South Carolina into the States of Pennsylvania, New York, West Virginia, and Georgia.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a decomposed substance by reason of the presence of moldy, rancid, shriveled, and otherwise decomposed pecans.

DISPOSITION: November 1, 1947. A plea of guilty having been entered, the defendant was sentenced to 240 days in jail and fined \$1,200. On November 21, 1947, upon payment of the \$1,200 fine, the remainder of the sentence was suspended and the defendant was placed on 1 year's probation.

13173. Adulteration of pecan meats. U. S. v. 70 Cases * * *. (F. D. C. No. 22856. Sample Nos. 69084-H, 69085-H.)

LIBEL FILED: April 23, 1947, Northern District of Illinois.

ALLEGED SHIPMENT: On or about February 13, 1947, by the Acker Pecan & Produce Co., from Albany, Ga.

PRODUCT: 70 25-pound cases of pecan meats at Chicago, Ill.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of *E. coli* in 26 cases and rodent hairs in 44 cases; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: August 5, 1947. L. D. Acker, trading as the Acker Pecan & Produce Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond to be brought into compliance with the law by washing to remove all filth, by drying and heating in order to kill any contaminating organisms, and by segregating and denaturing any unfit portion for use as animal feed, under the supervision of the Food and Drug Administration.

13174. Adulteration of pecans. U. S. v. 14 Bags * * *. (F. D. C. No. 24165. Sample No. 12230-K.)

LIBEL FILED: December 4, 1947, Eastern District of Pennsylvania.

ALLEGED SHIPMENT: On or about October 17, 1947, by the Consolidated Pecan Sales Co., from Albany, Ga.

PRODUCT: 14 bags, each containing 100 pounds, of pecans at Philadelphia, Pa.

LABEL, IN PART: "Apex Large Pecans."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of moldy and otherwise decomposed pecans, and it was otherwise unfit for food by reason of the presence of shriveled pecans.

DISPOSITION: June 21, 1948. The Shingler Pecan Co., the sole intervener, having failed to answer or otherwise plead, judgment of condemnation and destruction was entered.

13175. Adulteration of walnuts. U. S. v. 35 Cartons * * *. (F. D. C. No. 17174. Sample Nos. 29890-H, 29892-H, 29893-H.)

LIBEL FILED: August 23, 1945, Territory of Hawaii.

ALLEGED SHIPMENT: On or about July 27, 1945, by American Factors, Ltd., from San Francisco, Calif.

PRODUCT: 35 25-pound cartons of walnuts at Honolulu, T. H.

LABEL, IN PART: "Ruby Grade Sunset Brand Sunset Nut Shelling Co. San Francisco, California."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of worm-damaged walnuts, and of a decomposed substance by reason of the presence of moldy walnuts.

DISPOSITION: November 5, 1945. The shipper having admitted that the product was adulterated and having consented to the entry of a decree, judgment of condemnation was entered. The product was ordered forfeited and was destroyed.

OILS AND FATS

13176. Adulteration of olive oil, table oil, and macaroni and noodle products. U. S. v. Chicago Macaroni Co. and Joseph S. Matalone. Pleas of guilty. Fine, \$1,500 jointly against the defendants. (F. D. C. No. 22036. Sample Nos. 19483-H, 19484-H, 19764-H, 38440-H, 51226-H, 51228-H to 51230-H, incl., 51757-H, 51759-H, 51765-H, 51766-H.)

INFORMATION FILED: April 23, 1947, Northern District of Illinois, against the Chicago Macaroni Co., a corporation, Chicago, Ill., and Joseph S. Matalone, secretary.

ALLEGED SHIPMENT: Between the approximate dates of April 11 and September 23, 1946, from the State of Illinois into the States of Minnesota and Michigan.

LABEL, IN PART: "Extra Cyrilla Imported Olive Oil," "Italy Brand Table Oil Blend An Excellant Composition of Eighty Per Cent of Corn Oil and Twenty Per Cent of Pure Olive Oil," "Cyrilla Brand Macaroni [or "Pure Egg Noodles"]," or "Italy Brand Macaroni."

NATURE OF CHARGE: Olive oil. Adulteration, Section 402 (b) (2), oils other than olive oil had been substituted in part for olive oil.

Table oil. Adulteration, Section 402 (b) (1), a valuable constituent, olive oil, had been omitted; and, Section 402 (b) (2), a product containing little or no olive oil had been substituted for a blend of eighty percent corn oil and 20 percent pure olive oil.

Macaroni and noodle products. Section 402 (a) (3), the products consisted in part of filthy substances by reason of the presence of insect fragments, rodent hairs, and hairs resembling rodent or cat hairs; and, Section 402 (a) (4), they had been prepared under insanitary conditions whereby they may have become contaminated with filth.

DISPOSITION: September 10, 1947. Pleas of guilty having been entered, the court imposed a fine of \$1,500 jointly against the defendants.

13177. Adulteration and misbranding of oil. U. S. v. Emperor Dairy Products, Inc., and Benny Maniscalco. Plea of guilty. Fine, \$500. (F. D. C. No. 23260. Sample Nos. 65637-H, 65638-H, 65647-H, 65648-H.)

INFORMATION FILED: December 10, 1947, Southern District of New York, against Emperor Dairy Products, Inc., New York, N. Y., and Benny Maniscalco, president.

ALLEGED SHIPMENT: On or about October 28 and 30 and November 4, 1946, from the State of New York into the State of Pennsylvania.

LABEL, IN PART: "Contents One Gallon Emperor Brand Extra Quality Oil 80% Peanut Oil and 20% Pure Olive Oil."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), an artificially flavored vegetable oil of the nature of soybean oil had been substituted for "80% Peanut Oil and 20% Pure Olive Oil"; and, Section 402 (b) (4), artificial flavoring had been added to the article so as to make it appear to be a product containing a substantial amount of olive oil.

Misbranding, Section 403 (a), the label statement "80% Peanut Oil and 20% Pure Olive Oil" was false and misleading, since the product contained little or no peanut oil and olive oil, and, Section 403 (e) (2), the product failed to bear a label containing an accurate statement of the quantity of the contents, since the cans contained less than one gallon as declared.

DISPOSITION: January 26, 1948. Pleas of guilty having been entered on behalf of the defendants, a fine of \$500 was imposed.

13178. Misbranding of oil. U. S. v. Frank Arminante (Victory Imported & Domestic Cheese & Oil Co.). Plea of guilty. Fine, \$500. Sentence of 3 months in jail. (F. D. C. No. 23222. Sample Nos. 12663-H to 12666-H, incl.)

INFORMATION FILED: March 3, 1948, Southern District of New York, against Frank Arminante, trading as the Victory Imported & Domestic Cheese & Oil Co., New York, N. Y.

ALLEGED SHIPMENT: On or about March 19, 1946, from the State of New York into the State of Massachusetts.

LABEL, IN PART: (Cans) "One Gallon Roberta Brand Olio Puro The purity of this oil is guaranteed and we recommend it for all table uses," or "Puglia Brand Super Fine Pure Oil."

NATURE OF CHARGE: Misbranding, Section 403 (e) (2), the food was in package form and failed to bear a label containing an accurate statement of the quantity of the contents. (The cans contained less than the declared "One Gallon.")

DISPOSITION: April 8, 1948. A plea of guilty having been entered on behalf of the defendant, the court imposed a fine of \$500 and sentenced the defendant to 3 months in jail.

13179. Adulteration and misbranding of oil. U. S. v. 10 Cases * * * (and 1 other seizure action). (F. D. C. Nos. 24130, 24131. Sample Nos. 19211-K, 19212-K.)

LIBELS FILED: November 28, 1947, Northern District of Ohio.

ALLEGED SHIPMENT: On or about October 22, 1947, by G. Mauro, from Pittsburgh, Pa.

PRODUCT: 15 cases, each containing 6 1-gallon cans, of oil at Akron, Ohio.

LABEL, IN PART: (Main panels) "A Pure Blend of 80% Cotton Seed Oil, Corn Oil and 20% Olive Oil. Keystone Grocery Distributing Co. of Pittsburgh, Inc. Pittsburgh, Pa.; (side panels) "Fortebraccio Brand E'Prodotto Dalla Migliore Qualita' D'Olio. Ed E'Preparato Con Massime Cure E' Specialmente Raccomandato: Per Cucinare Cibi Squisiti, Per Le Insalate E Per Fritture."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), an artificially flavored mixture of cottonseed and corn oils with little, if any, olive oil had been substituted for 80% cottonseed oil and corn oil and 20% olive oil; and, Section 402 (b) (4), artificial flavoring had been added to the article so as to make it appear to contain olive oil, and therefore to be better and of greater value than it was.

Misbranding, Section 403 (a), the label statement "A Pure Blend of 80% Cotton Seed Oil, Corn Oil and 20% Olive Oil" was false and misleading; and, Section 403 (f), the label of the article contained representations in Italian, and the information required by law, i. e., an accurate statement of the quantity of the contents and the common or usual name of each ingredient, did not appear on the label in Italian.

DISPOSITION: March 16 and April 23, 1948. Default decrees of condemnation and destruction.

13180. Misbranding of mineral oil. U. S. v. 4 Drums * * *. (F. D. C. No. 21714. Sample No. 50106-H.)

LIBEL FILED: November 19, 1946, Western District of Texas; amended libel filed March 21, 1947.

ALLEGED SHIPMENT: On or about May 1 and July 2, 1946, by the Frank Pew Oil Co., Cleveland, Ohio.

PRODUCT: 4 55-gallon drums of mineral oil at San Antonio, Tex.

LABEL, IN PART: "Ramol No. 350."

NATURE OF CHARGE: Misbranding, Section 403 (b), the product was mineral oil and was offered for sale under the name of another food, salad oil; and, Section 403 (i) (1), the label failed to bear the common or usual name of the food.

DISPOSITION: June 27, 1947. Consent decree of forfeiture and destruction.

13181. Adulteration and misbranding of french dressing. U. S. v. 25 Cases * * *. (F. D. C. No. 21594. Sample No. 44630-H.)

LIBEL FILED: November 6, 1946, District of Arizona.

ALLEGED SHIPMENT: On or about May 10, 1946, by the Barra Co., from Los Angeles, Calif.

PRODUCT: 25 cases, each containing 24 1-pint bottles, of french dressing at Phoenix, Ariz.

LABEL, IN PART: "Barra's Concentrated French Dressing * * * Made of wine, vinegar, honey, salt, spices, karaya or tragacanth."

NATURE OF CHARGE: Adulteration, Section 402 (b) (1), a valuable constituent, oil, had been omitted; and, Section 402 (b) (2), a product containing no oil had been substituted for french dressing.

Misbranding, Section 403 (a), the label statement "French Dressing" was false and misleading.

DISPOSITION: September 12, 1947. Default decree of condemnation and destruction.

13182. Adulteration and misbranding of french dressing. U. S. v. 10 Cases
* * *. (F. D. C. No. 20393. Sample No. 43968-H.)

LIBEL FILED: July 18, 1946, Northern District of Texas.

ALLEGED SHIPMENT: On or about June 19, 1946, by the Barra Co., from Los Angeles, Calif.

PRODUCT: 10 cases, each containing 24 1-pint bottles, of french dressing at Fort Worth, Tex.

LABEL, IN PART: "Barra's Concentrated French Dressing * * * Made of wine, vinegar, honey, salt, spices, karaya or tragacanth."

NATURE OF CHARGE: Adulteration, Section, 402 (b) (1), a valuable constituent, oil, had been omitted; and, Section 402 (b) (2), a product containing no oil had been substituted for french dressing.

Misbranding, Section 403 (a), the label designation "Concentrated French Dressing" was false and misleading.

DISPOSITION: On February 13, 1947, the case was transferred to the Northern District of California for trial. On September 12, 1947, a default decree of condemnation and destruction was entered.

13183. Adulteration of salad dressing. U. S. v. 50 Cases * * * (and 15 other seizure actions). (F. D. C. Nos. 20802, 20838, 20839, 20861, 20862, 20887, 20986, 21019, 21020, 21045, 21121, 21123, 21125, 21853, 22628, 22679. Sample Nos. 8928-H, 9100-H, 11891-H, 53913-H, 54061-H, 57405-H to 57408-H, incl., 57414-H to 57416-H, incl., 60428-H, 60429-H, 60727-H, 60729-H, 64201-H, 64387-H, 64392-H, 64393-H, 64400-H, 74462-H.)

LIBELS FILED: Between September 3, 1946, and March 21, 1947, Northern District of New York, Western District of New York, District of Rhode Island, District of Maine, and Northern District of Ohio.

ALLEGED SHIPMENT: Between the approximate dates of July 23 and October 29, 1946, by the Suzanne Processed Oil Co., from Boston, Mass.

PRODUCT: Salad dressing. 310 dozen 8-ounce bottles, 898½ dozen 1-pint bottles, 1,092⅓ dozen 1-quart bottles, 251 dozen ½-gallon bottles, and 3¼ dozen 1-gallon bottles, in various amounts, at Syracuse, Camillus, Albany, Rochester, Schenectady, Utica, and Scotia, N. Y.; Providence, Pawtucket, and West Warwick, R. I.; Houlton, Maine; and Toledo, Ohio.

LABEL, IN PART: "Suzanne Merry-Maise Ingredients: U. S. P. Mineral Oil, Eggs, Salt, Sugar, Spices."

NATURE OF CHARGE: Adulteration, Section 402 (a) (1), the product contained added mineral oil, a deleterious substance, which may have rendered it injurious to health.

DISPOSITION: On August 19, 1947, the Suzanne Processed Oil Co. having appeared as claimant in certain of the cases, the action at Toledo was tried to the court; judgment was rendered for the Government, and the product was condemned and ordered destroyed. Between the dates of August 5, 1946, and September 6, 1947, decrees of condemnation and destruction were entered in the remaining actions, either by consent of the claimant or by default.

13184. Adulteration of Shorto. U. S. v. 2 Tins * * *. (F. D. C. No. 22226. Sample No. 64660-H.)

LIBEL FILED: January 30, 1947, District of Connecticut.

ALLEGED SHIPMENT: On or about November 13, 1946, by the H. C. Brill Co., Inc., from Newark, N. J.

PRODUCT: 2 50-pound tins of Shorto, a bakery supply product, at Hartford, Conn. Examination showed that the product was moldy.

LABEL, IN PART: "Brill's Shorto."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance.

DISPOSITION: April 8, 1947. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

POULTRY

13185. Adulteration of dressed poultry. U. S. v. 69 Boxes * * *. (F. D. C. No. 23939. Sample No. 20233-K.)

LIBEL FILED: October 29, 1947, District of Nebraska.

ALLEGED SHIPMENT: On or about October 6, 1947, by the Kingsley Produce Co., from Kingsley, Iowa.

PRODUCT: 69 boxes of dressed poultry at Omaha, Nebr.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

DISPOSITION: April 12, 1948. Default decree of condemnation and destruction.

13186. Adulteration of dressed poultry. U. S. v. 7 Boxes * * *. (F. D. C. No. 24199. Sample No. 15015-K.)

LIBEL FILED: December 2, 1947, Northern District of Illinois.

ALLEGED SHIPMENT: On or about October 14, 1947, by Goodrich & Shackelford, Inc., from Le Roy, Minn.

PRODUCT: 7 boxes of dressed poultry at Chicago, Ill.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of decomposed birds.

DISPOSITION: May 3, 1948. Default decree of condemnation and destruction.

13187. Adulteration of frozen chickens. U. S. v. 3 Boxes * * *. (F. D. C. No. 23809. Sample No. 15103-K.)

LIBEL FILED: October 27, 1947, Northern District of Illinois.

ALLEGED SHIPMENT: On or about August 19, 1947, by Stork Brothers, from New Ulm, Minn.

PRODUCT: 3 boxes, containing approximately 250 pounds, of frozen chickens at Chicago, Ill.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a decomposed substance; and, Section 402 (a) (5), it was in whole or in part the product of a diseased animal. (Examination showed the presence of decomposed and diseased chickens.)

DISPOSITION: May 3, 1948. Default decree of condemnation and destruction.

13188. Adulteration of dressed turkeys. U. S. v. 10 Boxes * * *. (F. D. C. No. 24169. Sample No. 4009-K.)

LIBEL FILED: December 4, 1947, District of Massachusetts.

ALLEGED SHIPMENT: On or about November 6, 1947, by the Utah Turkey Marketing Agency, from Salt Lake City, Utah.

PRODUCT: 10 boxes, containing approximately 1,040 pounds, of dressed turkeys at Boston, Mass.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance; and, Section 402 (a) (5), it was in whole or in part the product of a diseased animal. (Examination showed the presence of diseased and decomposed turkeys.)

DISPOSITION: March 1, 1948. Default decree of condemnation and destruction.

13189. Adulteration of dressed turkeys. U. S. v. 8 Boxes * * * (and 1 other seizure action). (F. D. C. Nos. 24168, 24195. Sample Nos. 724-K, 725-K.)

LIBELS FILED: December 4 and 29, 1947, Southern District of Florida.

ALLEGED SHIPMENT: On or about November 13 and 15, 1947, by the Fairmont Creamery Co. (Fairmont Foods Co.), from Giddings, Tex.

PRODUCT: 8 boxes, each containing 8 turkeys, and 12 boxes, each containing 6 turkeys, at Jacksonville, Fla.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of its being contaminated with fecal matter, and of a decomposed substance by reason of the presence of decomposed turkeys; and, Section 402 (a) (5), it was in whole or in part the product of a diseased animal.

DISPOSITION: February 26, 1948. Fairmont Foods Co., claimant, having consented to the entry of decrees, judgments of condemnation were entered and the product was ordered released under bond for evisceration and inspection under the supervision of the Federal Security Agency.

SPICE*

13190. Adulteration and misbranding of black pepper. U. S. v. Eli Souffie (Emsco Food Products). Plea of guilty. Fine, \$100. (F. D. C. No. 23310. Sample Nos. 57170-H, 57418-H.)

INFORMATION FILED: April 14, 1948, District of Massachusetts, against Eli Souffie, trading as Emsco Food Products, Boston, Mass.

ALLEGED SHIPMENT: On or about August 20, 1946, from the State of Massachusetts into the State of Rhode Island.

LABEL, IN PART: "Emsco Brand Black Pepper."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), a substance consisting essentially of a mixture of salt, starch, and pepper had been substituted for black pepper.

Misbranding, Section 403 (a), the label statement "Black Pepper" was false and misleading.

DISPOSITION: May 12, 1948. A plea of guilty having been entered, the court imposed a fine of \$100.

13191. Adulteration and misbranding of black pepper. U. S. v. Louis Travaglini. Plea of not guilty. Tried to the court. Judgment of guilty. Fine, \$500; defendant placed on 30 days' probation. (F. D. C. No. 21489. Sample Nos. 1775-H, 1777-H, 1781-H.)

INFORMATION FILED: July 17, 1947, Eastern District of Pennsylvania, against Louis Travaglini, Philadelphia, Pa.

ALLEGED SHIPMENT: On or about August 2, 7, and 28, 1946, from the State of Pennsylvania into the State of Georgia.

LABEL, IN PART: (Cards) "Red Star Pure Black Pepper Packed by Red Star Packing Co. Phila. Pa.," or "Di Rita's Pure Black Pepper. * * * Packed by Di Rita Food Products Phila., Pa.,"; (packages) "Pure Black Pepper."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), a mixture of salt, starch, and pepper had been substituted for pure black pepper.

Misbranding, Section 403 (a), the label statement "Pure Black Pepper" was false and misleading.

DISPOSITION: February 9, 1948. A plea of not guilty having been entered, the case was tried before the court. Judgment of guilty was entered. The defendant was fined \$500 and placed on 30 days' probation, the fine to be paid in 30 days as part of the probation.

13192. Misbranding of black pepper. U. S. v. Comegys Food Co. and Robert A. Comegys, Jr. Plea of nolo contendere by Comegys Food Co.; fine, \$100. Plea of not guilty by Robert A. Comegys, Jr.; judgment of not guilty. (F. D. C. No. 23226. Sample Nos. 2084-H, 2085-H, 64653-H.)

INFORMATION FILED: November 21, 1947, Eastern District of Pennsylvania, against the Comegys Food Co., a partnership, Philadelphia, Pa., and Robert A. Comegys, Jr., a partner.

ALLEGED SHIPMENT: On or about November 5, 12, and 20, 1946, from the State of Pennsylvania into the State of Connecticut and the District of Columbia.

*See also No. 13170.

LABEL, IN PART: (Cards) "Comegys * * * A Compound of Black Pepper"; (packages, in small type) "Ingredients Contains pepper, buckwheat, farina, wheat flour, salt, oil of cubeb, oleoresin of capsicum, Cereal Base * * * A Compound of Black Pepper."

NATURE OF CHARGE: Misbranding, Section 403 (a), the label statement "Black Pepper" was false and misleading, since the product contained little or no pepper; and, Section 403 (f), the information required by law under Section 403 (i) (2), i. e., the common or usual name of each of the ingredients, was not prominently placed on the label with such conspicuousness (as compared with other words, statements, designs, or devices in the labeling of the food) as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use, since the statement of ingredients appeared on the label in small type.

DISPOSITION: December 22, 1947. A plea of nolo contendere having been entered on behalf of the partnership, and a plea of not guilty having been entered on behalf of the individual, the partnership was fined \$100 and the individual defendant was found not guilty.

13193. Adulteration and misbranding of white pepper. U. S. v. 6 Cases * * *. (F. D. C. No. 24464. Sample No. 36452-K.)

LIBEL FILED: March 1, 1948, Western District of Washington.

ALLEGED SHIPMENT: On or about November 5, 1947, by the McClintock-Stern Co., Inc., from San Francisco, Calif.

PRODUCT: 6 cases, each containing 24 1-pound tins, of white pepper at Tacoma, Wash.

LABEL, IN PART: "Wood's De Luxe White Pepper."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insect fragments and rodent hair fragments.

Misbranding, Section 403 (e) (1), the product failed to bear a label containing the name and place of business of the manufacturer, packer, or distributor.

DISPOSITION: April 1, 1948. Default decree of condemnation and destruction.

13194. Adulteration of peppers. U. S. v. 400 Bags * * *. (F. D. C. No. 24572. Sample Nos. 15040-K, 15041-K.)

LIBEL FILED: April 1, 1948, Northern District of Illinois.

ALLEGED SHIPMENT: On or about February 6, 1948, by Young & Patterson (Tyler Warehouse Cold Storage Co.), from St. Louis, Mo.

PRODUCT: 400 bags, each containing 94 pounds, of peppers at Chicago, Ill.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insects and insect excreta, and of a decomposed substance by reason of the presence of mold.

DISPOSITION: June 9, 1948. The W. J. Stange Co., Chicago, Ill., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond, conditioned that the unfit portion be segregated and destroyed under the supervision of the Food and Drug Administration.

13195. Misbranding of mustard. U. S. v. 13 Cases * * *. (F. D. C. No. 24040. Sample No. 6034-K.)

LIBEL FILED: December 24, 1947, Northern District of Ohio.

ALLEGED SHIPMENT: On or about October 2, 1947, by H. F. Botsford & Co., from Carnegie, Pa.

PRODUCT: 13 cases, each containing 12 jars, of mustard at Youngstown, Ohio.

LABEL, IN PART: "Tweed's Prepared Mustard Contents 1 Lb. 4 Oz."

NATURE OF CHARGE: Misbranding, Section 403 (e) (2), the article failed to bear a label containing an accurate statement of the quantity of the contents. (The article was short-weight.)

DISPOSITION: April 23, 1948. H. F. Botsford & Co., claimant, having admitted the facts set forth in the libel, judgment of condemnation was entered and the product was ordered released under bond for relabeling under the supervision of the Food and Drug Administration.

**VITAMIN, MINERAL, AND OTHER PRODUCTS OF SPECIAL
DIETARY SIGNIFICANCE***

13196. Adulteration and misbranding of vitamin B-complex tablets. U. S. v. 258 Dozen Cartons, etc. (F. D. C. No. 19939. Sample No. 20898-H.)

LIBEL FILED: On or about June 21, 1946, Western District of Missouri.

ALLEGED SHIPMENT: On or about September 1, 1943, by Major Vitamins, Inc., from New York, N. Y.

PRODUCT: 258 dozen cartons, each carton containing 100 tablets, and 30 dozen cartons, each carton containing 200 tablets, of vitamin B-complex tablets at Kansas City, Mo. Examination showed that the product contained less than the declared amount of vitamin B₁.

LABEL, IN PART: "Major-B Brand Natural B-Complex Vitamins with added thiamine."

NATURE OF CHARGE: Adulteration, Section 402 (b) (1), a valuable constituent, vitamin B₁, had been in whole or in part omitted or abstracted from the article.

Misbranding, Section 403 (a), the label statements, "Thiamine (Vitamin B₁) Each Tablet .333 Milligrams 333 Micrograms (3 Tablets) 1000 Micrograms * * * 3 Major B-Complex tablets daily provide the minimum daily adult requirement of Thiamine (Vitamin B₁)," were false and misleading as applied to the product, which contained less than the stated amount of thiamine.

Further misbranding, Section 403 (a) (and Section 502 (a)), certain statements in the circulars entitled "How Vitamins Bring Health and Vigor to All the Family" and "We Supplement Our Daily Diet with B-Complex Vitamins," which were enclosed in the cartons containing the product, were false and misleading. These statements represented and suggested and created the impression that the article would be effective to provide greater energy, steadier nerves, better digestion, improved health and vigor, better appetite, insurance from vitamin deficiencies, physical well-being, protection against frequent colds, constipation, fatigue, digestive upsets, and other common ills; that it would provide the vitamins found in whole wheat bread, eggs, milk, liver, and tomato juice; that there are widespread vitamin deficiencies that would be corrected by use of the product, and that the article contained nutritionally significant amounts of all vitamins of the B-complex; and that foods are an unreliable source of vitamins, and that it was desirable and necessary to supplement the ordinary diet with the product. The product would not be effective for the purposes represented, suggested, and implied; it would not provide the vitamins found in whole wheat bread, eggs, milk, liver, and tomato juice; there are not widespread dietary deficiencies that would be corrected by use of the product; the product did not contain nutritionally significant amounts of all vitamins of the B-complex; foods are a reliable source of vitamins; and it is not desirable or necessary to supplement the ordinary diet with the product.

The article was alleged also to be misbranded under the provisions of the law applicable to drugs, as reported in notices of judgment on drugs and devices.

DISPOSITION: October 30, 1946. The product was adjudged adulterated and misbranded and was ordered delivered to a charitable institution.

13197. Adulteration and misbranding of Bio-Aminol. U. S. v. 34 Bottles * * * (F. D. C. No. 22810. Sample No. 73110-H.)

LIBEL FILED: April 3, 1947, Northern District of Ohio.

ALLEGED SHIPMENT: On or about November 18, 1946, by the Bio-Chemical Products Co., from Cleveland, Ohio, to St. Petersburg, Fla., and reshipped on or about January 18, 1947, to Lakewood, Ohio.

PRODUCT: 34 16-ounce bottles of Bio-Aminol powder at Lakewood, Ohio.

LABEL, IN PART: "Bio-Aminol 70 Powder, Fortified Protein Hydrolysate (Amino Acids) Contains Per Ounce: Protein Hydrolysate 70%."

NATURE OF CHARGE: Adulteration, Section 402 (b) (1), a valuable constituent, protein, had been in part omitted from the article.

Misbranding, Section 403 (a), the label statements "Contains Per Ounce: Protein Hydrolysate 70% * * * six heaping tablespoonsful per day supplies 70 grams of Protein" were false and misleading. (The product contained about 50 percent less protein than declared on the label.)

DISPOSITION: July 1, 1947. Default decree of condemnation and destruction.

*See also Nos. 13010, 13098.

13198. Adulteration and misbranding of Elemin tablets. U. S. v. 4 Cases * * *.
(F. D. C. No. 24764. Sample No. 30103-K.)

LIBEL FILED: May 11, 1948, District of Arizona.

ALLEGED SHIPMENT: On or about March 25, 1948, by Wilson & Dumont, from Los Angeles, Calif.

PRODUCT: 4 cases, each containing 12 700-tablet bottles, of Elemin at Phoenix, Ariz.

LABEL, IN PART: "Elemin as a source of Minerals Iron and Iodine Net Contents 700 Tablets * * * Four tablets per day will provide: Iodine—Not less than 0.5 milligrams * * * Iron—Not less than 40.0 milligrams."

NATURE OF CHARGE: Adulteration, Section 402 (b) (1), valuable constituents, iron and iodine, had been omitted.

Misbranding, Section 403 (a), the label statements "Four tablets per day will provide: Iodine—Not less than 0.5 milligrams * * * Iron—Not less than 40.0 milligrams" were false and misleading. (Examination showed that 4 tablets contained an average of 0.28 milligrams of iodine and 32.6 milligrams of iron.)

DISPOSITION: June 23, 1948. Default decree of condemnation and destruction.

MISCELLANEOUS FOODS

13199. Adulteration of sundae topping and misbranding of beverage sirups. U. S. v. Howard's, Inc. (Howard's Syrups Co.). Plea of guilty. Fine, \$600. (F. D. C. No. 24065. Sample Nos. 54700-H, 55301-H, 55303-H, 55304-H.)

INFORMATION FILED: January 16, 1948, Southern District of Florida, against Howard's, Inc. trading as Howard's Syrups Co., Miami, Fla.

ALLEGED SHIPMENT: On or about September 12, 1946, from the State of Florida into the State of Georgia.

LABEL, IN PART: "Howard's Beverage Syrup * * * Flavored Syrup Wild Cherry [or "Strawberry," "Pineapple," or "Chop Suey Topping"]."

NATURE OF CHARGE: Chop Suey Topping. Adulteration, Section 402 (a) (3), the product consisted in part of a filthy substance by reason of the presence of larvae and insect fragments.

Beverage sirups. Misbranding, Section 403 (a), the label statements, "Flavored Syrup Wild Cherry [or "Strawberry," or "Pineapple"]," were false and misleading. These statements represented and suggested that the articles were sirups flavored with wild cherry, strawberry, or pineapple, whereas they were acidulated and artificially flavored and colored sugar solutions. Further misbranding, Section 403 (c), the products were imitation wild cherry-, strawberry-, and pineapple-flavored sirups, respectively, and their labels failed to bear in type of uniform size and prominence, the word imitation and immediately thereafter the name of the food imitated.

DISPOSITION: January 23, 1946. A plea of guilty having been entered on behalf of the defendant, a fine of \$600 was imposed.

13200. Adulteration of beef soup base. U. S. v. 8 Cases. * * * (and 1 other seizure action). (F. D. C. Nos. 24701, 24702. Sample Nos. 12329-K, 12330-K.)

LIBELS FILED: April 1, 1948, Eastern District of Pennsylvania.

ALLEGED SHIPMENT: On or about February 5, 1948, by Empire Dehydrated Products, Inc., from Brooklyn, N. Y.

PRODUCT: Beef soup base. 8 cases, each containing 12 12-ounce jars, and 21 cases, each containing 12 16-ounce jars, at Philadelphia, Pa.

LABEL, IN PART: "Luda Brand Beef Soup Base," or "Sexton Superb Beef Soup Base."

NATURE OF CHARGE: Adulteration, Section 402 (a), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent hairs and insect fragments; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: June 28, 1948. Default decrees of condemnation and destruction.

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¹² (13036) Seizure contested. Contains opinion of the court.

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American Factors, Ltd.:		Banton Corp.:	
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walnuts	13175	Barra Co.:	
Ameri-cana Fisheries:		french dressing	13181, 13182
canned tuna fish	13108		

¹³ (13191, 13192) Prosecution contested.

	N. J. No.		N. J. No.
Barry, W. E.:		Clover Blossom Creamery. <i>See</i>	
ground yellow corn-----	13097	Sorenson, Paul.	
Baxter, H. C., & Bro.:		Colonial Cannery, Inc.:	
dehydrated potatoes-----	13158	strawberry preserves-----	13132
Beckham Candy Co. <i>See</i> Horowitz, Louis.		Colonial Stores, Inc., Whse.:	
Berry, Marvin, Co. <i>See</i> Marvin Berry Co.		canned field peas-----	13149
Better Buy Wholesale Grocers:		Comegys, R. A., Jr.:	
canned tomato sauce-----	13166	black pepper----- ¹³	13192
Bio-Chemical Products Co.:		Comegys Food Co.:	
Bio-Aminol-----	13197	black pepper-----	13192
Boecker, H. L.		Consolidated Pecan Sales Co.:	
butter-----	13072	pecans-----	13174
Boecker Creamery. <i>See</i> Boecker, H. L.		Consolidated Products Co.:	
Botsford, H. F., & Co.:		Semi-Solid Pig Emulsion-----	13102
mustard-----	13195	Continental Baking Co.:	
Brice, F. W., & Son:		bread-----	13014
egg noodles-----	13042	Cramer Products Co.:	
Brill, H. C., Co., Inc.:		popover mix-----	13046
Shorto-----	13184	Crowther, E. N., and N. W.:	
Brown Specialty Co.:		flour-----	13028
apple butter-----	13135	Crowther Bros. Milling Co.:	
Bundy, W. A.:		flour-----	13028
canned cherries-----	13115	Davies, Theo H., & Co.:	
Bundy Bros. Mill Co.:		spaghetti and macaroni-----	13037
corn meal-----	13020	Davis-Cleaver Produce Co.:	
Cabot Farmers' Cooperative Creamery Co., Inc.:		butter-----	13077
washed curd cheese-----	13089	Decker, A. H.:	
Cairo Pickle Co.:		beverage stabilizer-----	13003
sweet gherkin pickles-----	13156	Denver Noodle Factory. <i>See</i>	
California Conserving Co., Inc.:		Kawakami, F. J.	
canned tomato paste-----	13166	Di Rita Food Products:	
California Vulcan Macaroni Co.:		black pepper-----	13191
spaghetti and macaroni-----	13037	Dorsel Co.:	
Candyland, Inc.:		corn meal-----	13020
candy-----	13060	Dunnell, W. H.:	
Capital Butter & Egg Co.:		flour-----	13029
frozen whole eggs-----	13093	Eagle Roller Mill Co.:	
Capolina Packing Co.:		flour-----	13033
canned peaches-----	13124	Early & Daniel Co.:	
Chandler Laboratories, Inc.:		corn meal-----	13026
Syro-----	13005	Eastern Paper & Box Co., Inc.:	
<i>See also</i> Decker, A. H.		frozen strawberry puree-----	13130
Chase Candy Co.:		Ebert, Lewis, & Sons, Inc.:	
candy-----	13058	butter-----	13082
Cherokee Products Co.:		Emery Food Co.:	
field peas and field peas with snaps, canned-----	13148	canned peas-----	13151
Chicago Macaroni Co.:		Emperor Dairy Products, Inc.:	
oil and macaroni and noodle products-----	13176	oil-----	13177
Chilton Canning Co.:		Empire Dehydrated Products, Inc.:	
canned peas-----	13153	beef soup base-----	13200
City Milling Co.:		Empire Foods, Inc.:	
corn meal-----	13021	canned butter-----	13079
Claypool, A. A.:		Empire State Cheese Co.:	
tankage-----	13099	cheese-----	13090
Claypool Feed Co. <i>See</i> Claypool, A. A.		Emsco Food Products. <i>See</i> Souffie, Eli.	
		Erbrich, J. H., Products Co.:	
		peanut butter-----	13171
		Escalon Packers, Inc.:	
		canned cherries-----	13116

¹³ (13191, 13192) Prosecution contested.

	N. J. No.		N. J. No.
Ewing Mill Co.:		Hancock Canning Co., Inc.:	
corn meal-----	13022	apple butter-----	13134
Fairmont Creamery Co.:		Handy, John T., Co.:	
butter-----	13073, 13075	oysters-----	13110
turkeys, dressed-----	13189	Hannibal, Norman:	
Fairmont Foods Co.:		frozen rosefish fillets-----	13103
butter-----	13078	Hart Creamery Assoc.:	
<i>See also Fairmont Creamery</i>		butter-----	13083
<i>Co.</i>		Henjum, A. N.:	
Felder, M. H.:		flour-----	13030
pecan meats-----	13172	Higgins, Wm. A., & Co., Inc.:	
Fergus County Creamery:		brazil nuts-----	13169
frozen whole eggs-----	13094	Home Creamery:	
Fettig Canning Corp.:		butter-----	13086
tomato catsup-----	13161	Home Stores, Inc.:	
Filippone, J. B.:		corn meal-----	13023
macaroni-----	13038	Honeymoon Mills:	
Filippone, B., & Co.:		corn meal-----	13023
macaroni-----	13038	Hopkinsville Milling Co.:	
Finke Creamery Co.:		corn meal-----	13027
butter-----	13073	Horowitz, Louis:	
Fletcher-Wilson Coffee Co.:		candy-----	13051
peanut butter and prepared		Howard's, Inc.:	
mustard-----	13170	sundae topping and beverage	
Flotill Products, Inc.:		sirups-----	13199
canned peaches-----	13123	Howard's Syrups Co. <i>See How-</i>	
Fontana Food Products Co.:		<i>ard's, Inc.</i>	
spaghetti-----	13043	Hudson Duncan & Co.:	
Fort Worth Poultry & Egg Co.:		cherries in brine-----	13137
butter-----	13074	Hume, G. W., Co.:	
Frank, L., & Co.:		canned peaches-----	13120
butter-----	13078	Hunt Foods, Inc.:	
Friday Canning Corp.:		tomato paste, tomato sauce,	
canned peas-----	13154	and fruit cocktail, canned--	13166
Frigid Food Products:		Hygrade Food Products Corp.:	
frozen strawberries-----	13128	dehydrated potatoes-----	13158
Fussell-Young Ice Cream Co.:		Independence Cold Storage:	
frozen strawberries-----	13127	strawberry preserves-----	13132
Gates, J. I., Milling Co.:		Independent Fish Co.:	
corn meal-----	13025	frozen rosefish fillets-----	13103
Georgia Canning Co.:		Jacksonville Canneries:	
canned field peas-----	13149	canned tomatoes-----	13160
Gerry & Charles Co.:		Johnson Biscuit Co.:	
watermelon rind pickle-----	13140	cookies-----	13017
Glasgow Flour Mill Co.:		Jones, B. W., and O. F.:	
flour-----	13029	canned peaches-----	13119
Globe Sales Co.:		Jones Brothers Canning Co.:	
spiced olives-----	13139	canned peaches-----	13119
Glowacki, Leon, and Stephen:		Juillard Fancy Foods:	
bread-----	13012	spaghetti and macaroni-----	13037
Goodrich & Shackelford, Inc.:		Juliano Bros.:	
dressed poultry-----	13186	sardine herring-----	13104
Grain Derivatives Corp.:		June Dairy Products Co., Inc.:	
sorghum grain sirup-----	13067	butter-----	13084
Greenville Canning Co.:		cheese-----	13092
canned peaches-----	13121	Kawakami, F. J.:	
Grieco, Anthony:		macaroni and noodle products--	13040
wine vinegar-----	13141	Keller, E. C.:	
Grinnell, F. B.:		bread-----	13010
bakery products-----	13006	Keller's, Inc.:	
Haggerty, C. C.:		bread-----	13010
bread-----	13014	Keystone Grocery Distributing	
Hall, Walter T., & Co.:		<i>Co. of Pittsburgh, Inc.:</i>	
candy-----	13050	oil-----	13179

	N. J. No.		N. J. No.
King Cole Breweries, Inc.:		Marvin Berry Co.:	
beer	13001	frozen asparagus	13142
King Midas Flour Mills. <i>See</i>		Maryland Packers:	
Van Dusen Harrington Co.		frozen strawberries	13127
Kingsley Produce Co.:		Matalone, J. S.:	
dressed poultry	13185	oil and macaroni and noodle	
Lancaster Canning Co.:		products	13176
canned peas	13150	Mauro, G.:	
Lapp, W. H.:		oil	13179
Mineral Block	13098	Maxfield Creamery:	
Lapp, Wm. H., Laboratories. <i>See</i>		butter	13082
Lapp, W. H.		Medora Roller Mills:	
Larkmead Vineyards:		corn meal	13020
wine	13002	Mercer, M. E.:	
La Rue, J. C., Co.:		frozen huckleberries	13126
canned black-eyed peas	13147	Meriden Creamery Co., Inc.:	
Lee Co., Inc.:		cottage cheese	13088
canned grapefruit	13118	Midwest Biscuit Co.:	
Lee Growers Cooperative:		cookies	13018
canned grapefruit	13118	Mi-Jean Candies:	
Leggett, Francis H., & Co.:		candy	13056
canned peas	13150	Minot Flour Mill Co.:	
Leverton-California Corp.:		flour	13029
canned pimientos	13157	Mondial Co., Inc.:	
Levi, Jonathan, Co.:		dried mushrooms	13146
canned apricots	13114	Montana Flour Mills Co.:	
Libby, McNeill & Libby:		flour	13031
canned corn	13144	Montpelier Food Products Corp.:	
peas	13151	tomato catsup	13162
Liberty Chocolate Co.:		Morgan Packing Co.:	
chocolate candy	13059	tomato soup	13168
Linwood Creamery Co.:		Morris Fisheries, Inc.:	
butter	13080	whiting, yellow pike, and ocean	
Live Fish Co.:		perch, frozen	13106
frozen whiting	13105	Murphy, G. C., Co.:	
Loniello, S. A.:		candy	13055
candy	13052	Murphy Grain & Milling Co.:	
Lopez, L., Sons:		corn meal	13024
canned shrimp	13112	Nalley's, Inc.:	
McClintock-Stern Co., Inc.:		pickles	13155
white pepper	13193	National Cheese Co.:	
McGrath, H. J., Co.:		butter	13085
canned peas	13152	National Macaroni Mfg. Co.:	
Mai-Mai Co.:		macaroni	13038
Shrimp Chips	13113	National Retailer-Owned Grocers,	
Major Vitamins, Inc.:		Inc.:	
vitamin B-complex tablets	13196	canned peaches	13120
Malone, Chas., Co.:		Nett, Theo., & Co.:	
sirup	13069	beverage stabilizer	13004
Maniscalco, Benny:		New England Fillet Co., Inc.:	
oil	13177	frozen ocean perch	13106
Mann, Bart, Co.:		North American Canning Co.:	
honey	13071	tomato puree	13163
Manoogian, P. C.:		Northwestern Canning & Packing	
Rasinut and raisins	13053	Co.:	
Marco Chemical Co.:		tomato puree	13164
meat and bone scraps	13100	Ohio Pure Food Co.:	
Marketing Assoc. of America:		powdered egg yolks	13096
butter	13072	Okeene Milling Co. <i>See</i> Shawnee	
Marshfield Dairy Products Co.:		Milling Co.	
frozen eggs	13095	O'Melia, J. A.:	
Martin's Foods:		maple sirup	13066
grape jelly	13131		

	N. J. No.		N. J. No.
Orangeburg Pecan Co. <i>See</i> Fel-		Schaaf Perserving Co.:	
der, M. H.		preserved watermelon rind	13133
Page Dairy Co.:		Schuler, W. C.:	
butter	13081	candy	13047
Paramount Vinegar Sales Co.		Schuler Chocolates, Inc.:	
<i>See</i> Grieco, Anthony.		candy	13047
Parker, Carol, Frozen Foods,		Sears, Roebuck & Co.:	
Inc.:		Mineral Block	13098
frozen boysenberries	13125	Seibert, A. J., Co., Inc.:	
Parrott & Co.:		corn meal	13024
canned peaches	13122	Shawnee Milling Co.:	
Paul Bros. <i>See</i> Manoogian, P. C.		flour	13032
Paulus Bros. Packing Co.:		Sheridan Flouring Mills, Inc.:	
canned cherries	13117	flour	13034
Pearson, J. A.:		Sigg, Milton, Popcorn Co.:	
candy	13049	popcorn	13044
Pearson Candy Co.:		Silver Hill Products, Inc.:	
candy	13049	chocolate-flavored sirup	13064
Peoples Baking Co.:		Sisco, Albert, and Peter:	
bakery products	13008	candy	13048
Peterson, E. L., Canning Co.:		Sisco-Hamilton Co.:	
canned mustard greens	13145	candy	13048
Petrovic, Frank:		Skrmetta Seafood Co.:	
candy	13050	canned crab meat	13109
Pew, Frank, Oil Co.:		Sokolsky, Louis:	
mineral oil	13180	butter	13085
Pfaff Baking Co.:		Sorenson, Paul:	
bread	13013	butter	13076
Phelps Dodge Mercantile Co.:		Souffie, Eli:	
spaghetti and macaroni	¹² 13036	black pepper	13190
Polish Baking Co.:		Southern Gold Cheese Co., Inc.:	
bread	13012	Cheddar cheese	13087
Prince Macaroni Mfg. Co.:		Southern Packing Co., Inc.:	
egg noodles	13041	frozen strawberries	13129
Progressive Fish Wharf, Inc.:		Stauffer, D. E.:	
frozen rosefish fillets	13103	bakery products	13007
Quirk, Arch:		Stauffer, D. F., Biscuit Co.:	
popcorn	13045	bakery products	13007
Rainbow Syrup Co.:		Stella Cheese Co.:	
sirup	13068	Italian-type cheese	13091
Rayess Candy Co.:		Stockton Food Products, Inc.:	
candy	13054	canned cherries	13115
Red Star Packing Co.:		Stoltz, J. C.:	
black pepper	13191	candy	13050
Redmond, Arthur, Co., Inc.:		Stork Brothers:	
frozen whole eggs	13093	frozen chickens	13187
Redwood Creamery:		Sunset Nut Shelling Co.:	
butter	13084	walnuts	13175
Rees, A. F., Inc.:		Supreme Distributing Co.:	
meat and bone scraps	13101	bakery products	13007
Rexton Products Corp.:		Suzanne Processed Oil Co.:	
canned tuna fish	13108	salad dressing	13183
Richardson, Alice:		Sweet Candy Co.:	
cakes and cookies	13016	candy	13061
Richardson's, Mrs., Cookies. <i>See</i>		Sweetser Packing Co.:	
Richardson, Alice.		tomato puree	13165
Riverside Mills:		Thurman's, Inc.:	
corn meal	13024	candy	13055
Roeding Fig Co.:		Travaglini, Louis:	
fig paste and figs	13138	black pepper	¹³ 13191
Russell-Miller Milling Co.:		Tringali, James:	
enriched flour	13035	frozen rosefish fillets	13103

¹² (13036) Seizure contested. Contains opinion of the court.

¹³ (13191, 13192) Prosecution contested.

	N. J. No.		N. J. No.
Tri-State Produce Co.:		Waldbaum, S. & W., Inc.:	
frozen whole eggs-----	13093	canned butter-----	13079
Tyler Warehouse Cold Storage		Waldman's Fish Co.:	
Co. <i>See</i> Young & Patterson.		frozen yellow pike-----	13107
Union Biscuit Co.:		Walker, H. R., & Sons:	
chocolate coating-----	13062	flour-----	13029
United States Products Corp.,		Weinberg, Herman:	
Ltd.:		bread-----	13011
canned apricots-----	13114	Weinberg, L., Baking Co.:	
Utah Turkey Marketing Agency:		bread-----	13011
dressed turkeys-----	13188	Western California Cannery,	
Val Vita Food Co.:		Inc.:	
canned fruit cocktail-----	13166	tomato sauce-----	13167
Vanderstein, James:		Weston Feed Mills. <i>See</i> Barry,	
bread-----	13010	W. E.	
Van Dusen Harrington Co.:		White, Bob, Candy Co. <i>See</i> Loni-	
flour-----	13030	ello, S. A. .	
Vaughn, H. L.:		Whiteside Cannery:	
soybean toast and bread-----	13015	canned spinach-----	13159
Venus Baking Co.:		Whitson Candy Co.:	
wheat wafers-----	13019	candy-----	13057
Versaggi Fish Co.:		Williams, R. C., & Co., Inc.:	
frozen shrimp-----	13111	preserved watermelon rind----	13133
Victory Imported & Domestic		Wilson & Dumont:	
Cheese & Oil Co. <i>See</i> Armi-		Elemin tablets-----	13198
nante, Frank.		Wuerch, L. C.:	
Viviano, F. P., and P. R.:		bread-----	13014
macaroni and noodle products--	13039	Wulfekuhler, Eugene:	
Viviano, V., & Brothers Macaroni		candy-----	13050
Mfg. Co.:		X-L Sugar Products Co.:	
macaroni and noodle products--	13039	molasses-----	13070
		Young & Patterson:	
		peppers-----	13194

ERRATUM

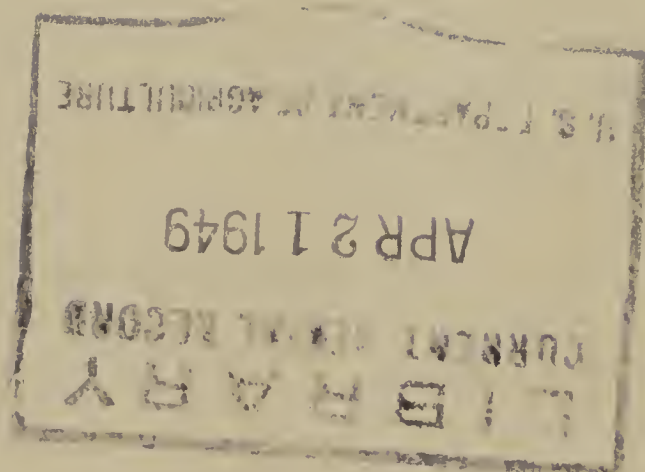
F. N. J. 11307, DISPOSITION, line 1: After "January 13," change "1946" to "1947."



<i>Agriculture</i>	<i>Marketing</i>
<i>Aliens</i>	<i>Military Affairs</i>
<i>Atomic Energy</i>	<i>Money and Finance</i>
<i>Aviation</i>	<i>Patents</i>
<i>Business Credit</i>	<i>Public Contracts</i>
<i>Communications</i>	<i>Public Lands</i>
<i>Customs</i>	<i>Securities</i>
<i>Fair Trade Prac- tice</i>	<i>Shipping</i>
<i>Food and Drugs</i>	<i>Social Security</i>
<i>Foreign Relations and Trade</i>	<i>Taxation</i>
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FEDERAL SECURITY AGENCY

FOOD AND DRUG ADMINISTRATION

NOTICES OF JUDGMENT UNDER THE FEDERAL FOOD, DRUG, AND COSMETIC ACT

[Given pursuant to section 705 of the Food, Drug, and Cosmetic Act]

13201-13350

FOODS

The cases reported herewith were instituted in the United States district courts by the United States attorneys acting upon reports submitted by direction of the Federal Security Administrator.

OSCAR R. EWING, *Administrator, Federal Security Agency.*

WASHINGTON, D. C., *December 28, 1948.*

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BEVERAGES AND BEVERAGE MATERIALS

13201. **Adulteration and misbranding of beer.** U. S. v. 1,398 Cases. * * *.
(F. D. C. No. 22400. Sample No. 53561-H.)

LIBEL FILED: January 18, 1947, Eastern District of Tennessee.

ALLEGED SHIPMENT: On or about September 28, 1946, by the Hartig Co., from Watertown, Wis.

PRODUCT: 1,398 cases, each containing 24 bottles, of beer at Johnson City, Tenn.

LABEL, IN PART: "Hartig's Special Beer Contents 12 Fluid Oz.," or "Old Wisconsin Premium Beer Contents 12 Fluid Oz."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product was unfit for food by reason of the presence of a large amount of sediment, and the fact that it was sour and unpalatable; and (Hartig's Special Beer), Section 402 (a) (2), it contained an added poisonous and deleterious substance, monochloroacetic acid, which is unsafe within the meaning of the law, since it is a substance not required in the production of the food and could have been avoided by good manufacturing practice.

Misbranding, Section 403 (e) (2), the product failed to bear a label containing an accurate statement of the quantity of the contents. (The bottles contained less than the declared 12-fluid ounces.)

DISPOSITION: March 10, 1947. South Dixon, trading as the South Dixon Distributing Co., claimant, Johnson City, Tenn., having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond, conditioned that the contents be destroyed and the bottles salvaged under the supervision of the Food and Drug Administration.

13202. Adulteration and misbranding of grape drink. U. S. v. Army Packing Co., Inc., and Louis Blumenthal and Ralph Blumenthal. Pleas of guilty. Fines of \$100 against corporation, \$200 against Louis Blumenthal, and \$75 against Ralph Blumenthal. (F. D. C. No. 23268. Sample No. 90891-H.)

INFORMATION FILED: January 15, 1948, Northern District of New York, against the Army Packing Co., Inc., Utica, N. Y., Louis Blumenthal, president, and Ralph Blumenthal, secretary-treasurer.

ALLEGED SHIPMENT: On or about August 10, 1946, from the State of New York into the State of New Jersey.

LABEL, IN PART: "Southern Grape Drink."

NATURE OF CHARGE: Adulteration, Section 402 (b) (4), artificial color and citric acid had been added to and mixed and packed with the product so as to make it appear to be grape juice, which is better and of greater value than the product.

Misbranding, Section 403 (a), the statement "Grape Drink" displayed on the bottles was false and misleading. The statement represented and suggested that the product contained a significant amount of grape juice, whereas it was an artificially colored acidulated beverage, containing an insignificant amount of grape juice; and, Section 403 (k), the product contained artificial coloring and a chemical preservative, sodium benzoate, and failed to bear labeling stating that fact.

DISPOSITION: May 10, 1948. Pleas of guilty having been entered, the court imposed fines of \$100 against the corporation, \$200 against Louis Blumenthal, and \$75 against Ralph Blumenthal.

13203. Adulteration and misbranding of grape juice. U. S. v. Louis Blumenthal and Ralph Blumenthal (Aunt Lil's Food Products, Inc.). Pleas of guilty. Fines of \$900 against Louis Blumenthal and \$225 against Ralph Blumenthal. (F. D. C. No. 23269. Sample Nos. 66790-H, 66791-H, 66793-H, 66794-H, 87778-H.)

INFORMATION FILED: January 15, 1948, Northern District of New York, against Louis Blumenthal and Ralph Blumenthal, at the time of the shipments charged, president and secretary-treasurer, respectively, of Aunt Lil's Food Products, Inc., Utica, N. Y.

ALLEGED SHIPMENT: On or about March 19 and 20 and June 11, 1947, from the State of New York into the State of New Jersey.

LABEL, IN PART: "Aunt Lil's Pasteurized Concord Grape Juice * * * Aunt Lil's Food Products, Inc. Utica, New York," or "Grape Valley Pasteurized Concord Grape Juice * * * Manufactured By Grape Valley Juice Co., Inc. Utica, N. Y."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), a product containing added water had been substituted in part for grape juice; and, Section 402 (b) (4), water had been added to and mixed with the article so as to reduce its quality and strength.

Misbranding, Section 403 (a), the statements "Grape Juice * * * Sugar Added," borne on the labels, were false and misleading, since they represented and suggested that the article consisted of grape juice and sugar, whereas it consisted of grape juice and sugar with added water; and, Section 403 (e) (2), the product was in package form and failed to bear a label containing an accurate statement of the quantity of the contents, since the label bore the statement "Contents One Quart," whereas the bottles contained less than 1 quart.

DISPOSITION: May 10, 1948. Pleas of guilty having been entered on behalf of the defendants, the court imposed a fine of \$900 against Louis Blumenthal and \$225 against Ralph Blumenthal.

13204. Adulteration and misbranding of canned lime juice. U. S. v. 5 Cases
* * *. (F. D. C. No. 24452. Sample No. 513-K.)

LIBEL FILED: March 6, 1948, Middle District of Georgia.

ALLEGED SHIPMENT: On or about October 8, 1947, by Choate & Atkins, from Eustis, Fla.

PRODUCT: 5 cases, each containing 24 1-pint, 2-fluid-ounce cans, of lime juice at Albany, Ga.

LABEL, IN PART: (Large type) "Choate & Atkins Tree-Ripened Lime Juice"; (small type) "With citric acid and water added to improve flavor."

NATURE OF CHARGE: Adulteration, Section 402 (b) (4), water had been added to the product to reduce its quality or strength, and citric acid had been added to make it appear better and of greater value than it was. (Examination showed that the product consisted of lime juice, which had been diluted with a large proportion of water and which contained added citric acid.)

Misbranding, Section 403 (a), the prominent label designation "Lime Juice" and the label statements "We offer a Lime Juice * * * Lime or Lemon Juice * * * for 5 glasses of Limeade add $\frac{1}{3}$ cup juice * * * For your health * * *" were false and misleading, since the article was not lime juice and when used as directed on the label, would result in a beverage which had an insignificant quantity of lime juice, but which would appear to contain more than its actual content of lime juice, due to the presence of added citric acid.

DISPOSITION: April 5, 1948. Default decree of condemnation and destruction.

13205. Adulteration of orange sirup. U. S. v. Orange Smile Sirup Co., Inc. Plea of guilty. Fine, \$15. (F. D. C. No. 21458. Sample Nos. 35099-H, 40308-H, 40313-H.)

INFORMATION FILED: February 27, 1947, Eastern District of Missouri, against Orange Smile Sirup Co., Inc., St. Louis, Mo.

ALLEGED SHIPMENT: On or about April 11, 15, and 18, 1946, from the State of Missouri into the State of Arkansas.

LABEL, IN PART: "Commander Line Orange Flavor Contains Concentrated Orange Juice, Orange Oil, Modified Vegetable Oil, An Acidulant, Water, Certified Food Color And A Stabilizer."

NATURE OF CHARGE: Adulteration, Section 402 (a) (2), the product contained an added poisonous and deleterious substance, quaternary ammonium compound, which substance was unsafe within the meaning of the law, since it was not required in the production of the food and could have been avoided by good manufacturing practice.

DISPOSITION: May 8, 1947. The defendant having entered a plea of guilty, the court imposed a fine of \$15.

13206. Adulteration and misbranding of imitation wild cherry sirup and imitation strawberry sirup. U. S. v. 2 Barrels * * * (and 1 other seizure action). (F. D. C. Nos. 22831, 23068. Sample Nos. 68186-H, 68187-H, 68228-H.)

LIBELS FILED: On or about April 18 and June 11, 1947, Western District of Missouri and District of Kansas.

ALLEGED SHIPMENT: On or about June 21 and August 8, 1946, by C. H. McCarter & Co., from Union City, Ind.

PRODUCT: 2 50-gallon barrels of imitation wild cherry sirup at Richmond, Mo., and 3 60-gallon barrels of imitation wild cherry sirup and 6 60-gallon barrels of imitation strawberry sirup at Leavenworth, Kans.

LABEL, IN PART: "Imitation Medium Wild Cherry [or "Strawberry"] Sirup."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), sirups having a strong molasses flavor had been substituted in whole or in part for the articles.

Misbranding (3 barrels of wild cherry and 6 barrels of strawberry sirups), Section 403 (a), the label statements, "Imitation Medium Wild Cherry Syrup contains: Sugar Syrup" and "Imitation Strawberry Syrup Sugar Syrup," were false and misleading; and, Section 403 (i) (2), the products were fabricated from two or more ingredients and the labels failed to bear the common or usual name of each ingredient, since molasses was not declared.

DISPOSITION: June 4 and September 20, 1947. Default decrees of condemnation and destruction.

13207. Adulteration of wine. U. S. v. 47 Cases, etc. (and 7 other seizure actions).
(F. D. C. Nos. 22719, 22720, 22729, 22755, 22771, 22772, 23003, 23104. Sample Nos. 1572-H, 1995-H, 55315-H, 60574-H, 60575-H, 61327-H, 69006-H, 69007-H, 90610-H, 90611-H, 90763-H.)

LIBELS FILED: Between March 24 and May 8, 1947, Southern District of Florida, Eastern District of Virginia, District of Columbia, Western District of Pennsylvania, Northern District of Ohio, Eastern District of South Carolina, and Northern District of Indiana.

ALLEGED SHIPMENT: Between the approximate dates of September 26, 1946, and January 30, 1947, by the Guttenberg Wine Co., Guttenberg, N. J.

PRODUCT: Wine. 1,185 cases, each containing 12 fifth-gallon bottles, 47 cases, each containing 24 1-pint bottles, and 2 cases, each containing 6 half-gallon bottles, in various lots, at Jacksonville, Fla., Norfolk, Va., Washington, D. C., Pittsburgh, Pa., Youngstown, Ohio, Charleston, S. C., Gary, Ind., and Tampa, Fla. Samples of this product contained monochloroacetic acid in amounts ranging from 28 parts to 199 parts per million.

LABEL, IN PART: "Royal State Brand American Blackberry [or "Apple" or "Concord Grape"] Wine," or "New York State * * * Concord Grape Wine."

NATURE OF CHARGE: Adulteration, Section 402 (a) (2), the product contained an added poisonous and deleterious substance, monochloroacetic acid, which is unsafe within the meaning of the law, since it is a substance not required in the production of the food and could have been avoided by good manufacturing practice.

DISPOSITION: Between April 23 and July 16, 1947. Default decrees of condemnation and destruction.

13208. Adulteration of wine. U. S. v. 113 Cases, etc. (and 4 other seizure actions).
(F. D. C. Nos. 22507, 22560, 22561, 22609, 22623. Sample Nos. 40848-H to 40850-H, incl., 40853-H to 40855-H, incl., 41450-H, 77115-H, 77130-H, 77131-H, 91747-H, 91748-H.)

LIBELS FILED: February 13 and 19 and March 4 and 26, 1947, Districts of Minnesota and Colorado and Eastern District of Missouri.

ALLEGED SHIPMENT: Between the approximate dates of March 22 and June 23, 1946, by the Robbins Wine Co., from New York, N. Y.

PRODUCT: Wine. 1,407 cases, each containing 12 fifth-gallon bottles, 530 cases, each containing 6 half-gallon bottles, and 46 cases, each containing 4 1-gallon bottles, in various lots, at Minneapolis, Minn., St. Louis, Mo., and Denver, Colo. The product contained monochloroacetic acid in amounts ranging from 46 to 190 parts per million.

LABEL, IN PART: "Streit's New York State Concord Grape [or "Malaga"] Wine," or "Jericho Brand American Concord Grape Wine."

NATURE OF CHARGE: Adulteration, Section 402 (a) (2), the product contained an added poisonous and deleterious substance, monochloroacetic acid, which is unsafe within the meaning of the law, since it is a substance not required in the production of the article and could have been avoided by good manufacturing practice.

DISPOSITION: March 26, June 2, October 2, and November 14, 1947. Decrees of condemnation. The product was ordered destroyed.

13209. Adulteration of tomato juice. U. S. v. 38 Cases * * * (and 1 other seizure action). (F. D. C. Nos. 21856, 22335. Sample Nos. 61789-H, 61790-H.)

LIBELS FILED: On or about January 30, 1947, District of Oregon.

ALLEGED SHIPMENT: On or about September 27 and October 2, 4, and 6, 1946, by the Pacific Fruit & Produce Co., from Walla Walla, Wash.

PRODUCT: Tomato juice. 38 cases at Baker, Oreg., and 71 cases at La Grande, Oreg. Each case contained 12 1-quart, 14-ounce cans.

LABEL, IN PART: "Corner State Brand Tomato Juice * * * Packed by Wapato Packing Company Wapato, Washington."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of fly eggs, maggots, and insect fragments, and of a decomposed substance by reason of the presence of decomposed tomato material.

DISPOSITION: March 3, 1947. Default decrees of condemnation and destruction.

13210. Adulteration of tomato juice. U. S. v. 623 Cases * * *. (F. D. C. No. 24469. Sample No. 29183-K.)

LIBEL FILED: March 6, 1948, Northern District of Texas.

ALLEGED SHIPMENT: On or about January 15, 1948, by the Farmers Union Marketing Assoc., Palisade, Colo.

PRODUCT: 623 cases, each containing 12 1-quart, 14-fluid-ounce cans, of tomato juice at Lubbock, Tex.

LABEL, IN PART: "Colo-Flavor Brand Tomato Juice."

NATURE OF CHARGE: Adulteration, Section 402(a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of fly eggs and maggots; and, Section 402(a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: May 24, 1948. Default decree of condemnation and destruction.

13211. Adulteration of tomato juice. U. S. v. 160 Cases * * * (and 1 other seizure action). (F. D. C. Nos. 24340, 24366. Sample Nos. 9366-K, 13044-K.)

LIBELS FILED: February 11 and March 3, 1948, Southern District of New York and Eastern District of Pennsylvania.

ALLEGED SHIPMENT: On or about October 23 and 29, 1947, and January 22, 1948, by the Garden State Canning Co., Hightstown, N. J.

PRODUCT: Tomato juice. 379 cases at Bridgeport, Pa., and 160 cases at Bronx, N. Y., each containing 12 1-quart, 14-fluid-ounce cans.

LABEL, IN PART: "Norris Tomato Juice," or "Kontos Brand Tomato Juice."

NATURE OF CHARGE: Adulteration, Section 402(a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of decomposed tomato material.

DISPOSITION: March 18 and May 17, 1948. Default decrees of condemnation and destruction.

13212. Adulteration of tomato juice. U. S. v. 427 Cases * * *. (F. D. C. No. 24847. Sample No. 12954-K.)

LIBEL FILED: May 17, 1948, Eastern District of Pennsylvania.

ALLEGED SHIPMENT: On or about March 3, 1948, by the Comstock Canning Co., from Egypt, N. Y.

PRODUCT: 427 cases, each containing 12 1-quart, 14-fluid-ounce cans, of tomato juice at Philadelphia, Pa.

LABEL, IN PART: "Our Pride Brand Tomato Juice."

NATURE OF CHARGE: Adulteration, Section 402(a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of decomposed tomato material.

DISPOSITION: June 28, 1948. Default decree of condemnation and destruction.

13213. Adulteration of tomato juice. U. S. v. 82 Cases * * * (and 1 other seizure action). (F. D. C. Nos. 24487, 24488. Sample Nos. 24059-K, 24076-K.)

LIBELS FILED: March 16 and 17, 1948, Northern and Southern Districts of Iowa.

ALLEGED SHIPMENT: On or about October 8 and 10, 1947, by the S. J. Miller Packing Co., from Grand Junction, Colo.

PRODUCT: Tomato juice. 82 cases, each containing 6 96-ounce cans, at Eldora, Iowa, and 190 cases, each containing 12 1-quart, 14-fluid-ounce cans, at Davenport, Iowa.

LABEL, IN PART: "Sun Beauty Fancy Grade Tomato Juice * * * Packed by Sebastiani Canning Co., Grand Junction, Colo.," or "Usona Brand Tomato Juice."

NATURE OF CHARGE: Adulteration, Section 402(a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of fly eggs and maggots; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: April 14 and 15, 1948 Default decrees of condemnation and destruction.

CEREALS AND CEREAL PRODUCTS

BAKERY PRODUCTS

13214. Action to enjoin and restrain the interstate shipment of bakery products. U. S. v. David's Baking Co., Inc. Consent decree granting injunction. (Inj. No. 181.)

COMPLAINT FILED: February 5, 1948, District of Massachusetts, against David's Baking Co., Inc., Fall River, Mass.

NATURE OF CHARGE: That the defendant had been and was still introducing and delivering for introduction into interstate commerce, at Fall River, Mass., bread, rolls, and other baked food products, which were adulterated in the following respects:

Section 402 (a) (3), the products consisted in part of filthy substances, such as whole insects, large insect parts, insect fragments, part of a rodent, rodent hair fragments, and other filth; and, Section 402 (a) (4), they had been and were still being prepared and held under insanitary conditions whereby they may have become contaminated with filth.

The complaint alleged further that rodents, rodent excreta, beetles, other insects, and other filthy substances, such as larvae, insect webbing, and non-descript dirt, were present in and around the plant where the bakery products were being prepared and held, and in and around the equipment and raw materials used for preparing and holding the bakery products; that the presence of such filth contaminated the foods and subjected them to contamination by rodents and insects and their excreta and other filth; and that because of inadequate, insanitary toilet facilities in the plant and general carelessness on the part of the employees, the bakery products prepared and held therein were subject to contamination.

PRAYER OF COMPLAINT: That the defendant be perpetually enjoined from commission of the acts complained of; and that a preliminary injunction be granted during the pendency of the action.

DISPOSITION: February 13, 1948. The defendant having consented to the entry of a decree, the court issued an order perpetually enjoining the defendants from shipping in interstate commerce any adulterated baked food product or food which would be prepared in the future at the Fall River, Mass., plant.

13215. Adulteration of bakery products. U. S. v. Hy-Klas Food Products, Inc., and Charles J. Nelson. Pleas of guilty. Joint fine, \$1,000. (F. D. C. No. 24523. Sample Nos. 20859-K, 20861-K, 20862-K, 20864-K, 20866-K.)

INFORMATION FILED: May 12, 1948, Western District of Missouri, against Hy-Klas Food Products, Inc., St. Joseph, Mo., and Charles J. Nelson, manager.

ALLEGED SHIPMENT: On or about December 17 and 19, 1947, from the State of Missouri into the State of Kansas.

LABEL, IN PART: "Hy-Klas Cake [or "Bread," "Golden Crust Wheat Bread," "Cinnamon Rolls," or "Donuts"]."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the products consisted in part of filthy substances by reason of the presence of larvae, insect fragments, rodent hair fragments, and rodent hairs; and, Section 402 (a) (4), they had been prepared under insanitary conditions whereby they may have become contaminated with filth.

DISPOSITION: May 12, 1948. Pleas of guilty having been entered on behalf of the defendants, the court imposed a fine of \$1,000, plus costs, to be paid jointly by Hy-Klas Food Products, Inc., and Charles J. Nelson.

13216. Adulteration of bakery products. U. S. v. Irving R. Knapp (Glen Rock Steam Bakery). Plea of nolo contendere. Defendant fined \$100 and placed on 1 year's probation. (F. D. C. No. 23561. Sample Nos. 85317-H, 85318-H, 85320-H, 90261-H to 90264-H, incl., 90266-H, 90267-H.)

INFORMATION FILED: August 26, 1947, Middle District of Pennsylvania, against Irving R. Knapp, trading as the Glen Rock Steam Bakery, Glen Rock, Pa.

ALLEGED SHIPMENT: On or about January 18 and 24 and May 2, 1947, from the State of Pennsylvania into the State of Maryland.

LABEL, IN PART: [Portion] "Glen Sandwich Loaf [or "Long Loaf"]," or "Glen-Home-Like Sandwich Rolls [or "Cocoanut Yellow Cake," "Black Walnut Cake," or "Vanilla Devils Food Cake"]."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the products consisted in part of filthy substances by reason of the presence of insect larvae, larval heads, insect heads, insect fragments, rodent hair fragments, cat hair fragments, and feather fragments; and, Section 402 (a) (4), they had been prepared and packed under insanitary conditions whereby they may have become contaminated with filth.

DISPOSITION: October 28, 1947. A plea of nolo contendere having been entered, the defendant was fined \$100 and placed on a 1-year probation.

13217. Adulteration of bakery products. U. S. v. Columbia Baking Co. Plea of guilty. Fine, \$800. (F. D. C. No. 22043. Sample Nos. 90217-H to 90222-H, incl., 90232-H to 90234-H, incl., 90236-H, 90238-H, 90239-H.)

INFORMATION FILED: June 2, 1947, Western District of Virginia, against the Columbia Baking Co., a corporation.

ALLEGED SHIPMENT: On or about December 3, 4, 7, and 10, 1946, from the State of Virginia into the State of West Virginia.

LABEL, IN PART: "Fruit Cake [or "Southern * * * Bread," or "Southern * * * Dinner Rolls"] Columbia Baking Co., Atlanta, Ga."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the products consisted in part of filthy substances by reason of the presence of insect fragments, mites, rodent hair fragments, insect larvae, adult and larval insect heads, larval cast skin, a larval head capsule, a psocid, a scale insect, and feather fragments; and, Section 402 (a) (4), they had been prepared and packed under insanitary conditions whereby they may have become contaminated with filth.

DISPOSITION: October 27, 1947. A plea of guilty having been entered on behalf of the defendant, the court imposed a fine of \$100 on each of the 8 counts.

13218. Adulteration of bread. U. S. v. Weintraub Baking Co., Inc., and Louis J. Weintraub. Pleas of guilty. Joint fine, \$400, plus costs. (F. D. C. No. 24525. Sample Nos. 21037-K, 21038-K, 21042-K, 21046-K, 21049-K, 21052-K, 21053-K.)

INFORMATION FILED: April 7, 1948, Western District of Missouri, against Weintraub Baking Co., Inc., Kansas City, Mo., and Louis J. Weintraub, president and general manager.

ALLEGED SHIPMENT: On or about October 3, 6, and 31, 1947, from the State of Missouri into the State of Kansas.

LABEL, IN PART: "Old Fashioned Pumpernickel Bread," "Italian Bread," "Golden Cream Sliced Bread," or "Old Fashioned Rye Bread."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the products consisted in part of filthy substances by reason of the presence of insects, insect fragments, and rodent hair fragments; and, Section 402 (a) (4), with the exception of one shipment, the products had been prepared under insanitary conditions whereby they may have become contaminated with filth.

DISPOSITION: May 7, 1948. Pleas of guilty having been entered on behalf of the defendants, the court imposed fines of \$100 on the first count and \$50 on each of the other six counts, to be paid jointly, with costs paid by the corporation and Louis J. Weintraub.

13219. Adulteration of bread. U. S. v. Interstate Bakeries Corporation. Plea of nolo contendere. Fine of \$300 and costs. (F. D. C. No. 24543. Sample Nos. 21040-K, 21055-K to 21057-K, incl., 21061-K.)

INFORMATION FILED: April 20, 1948, Western District of Missouri, against the Interstate Bakeries Corp., Kansas City, Mo.

ALLEGED SHIPMENT: On or about October 8 and November 6, 1947, from the State of Missouri into the State of Kansas.

LABEL, IN PART: "Sliced Butter-nut White Bread," "Schulze White Raisin Bread," "Schulze Honey Wheat California Fruit Juice Added Bread," "Schulze Dixie Rye," "Sliced Butter-Nut White Bread New!"

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a filthy substance by reason of the presence of insect fragments, rodent hairs, insects, and insect parts; and, Section 402 (a) (4), it was prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: April 27, 1948. A plea of nolo contendere having been entered on behalf of the defendant, the court imposed a fine of \$300, plus costs.

13220. Adulteration and misbranding of enriched bread. U. S. v. Langendorf United Bakeries, Inc. Plea of nolo contendere. Fine, \$60. (F. D. C. No. 22090. Sample Nos. 61505-H, 61511-H, 61519-H.)

INFORMATION FILED: June 26, 1947, District of Oregon, against Langendorf United Bakeries, Inc., Portland, Oreg.

ALLEGED SHIPMENT: On or about July 11 and 23 and August 6, 1946, from the State of Oregon into the State of Washington.

LABEL, IN PART: "Dr. Penland's Vitamin B₁ Wheat Bread 14.4 oz. Contains 1,100 International Units Vitamin B₁."

NATURE OF CHARGE: Adulteration, Section 402 (b) (1), a valuable constituent, vitamin B₁, had been omitted, since 14.4 ounces of the bread would provide less than 1,100 International Units of vitamin B₁.

Misbranding, Section 403 (a), the label statement "14.4 oz. Contains 1,100 International Units Vitamin B₁" was false and misleading.

DISPOSITION: November 7, 1947. A plea of nolo contendere having been entered, the defendant was fined \$60.

13221. Adulteration and misbranding of potato bread and misbranding of whole wheat bread. U. S. v. Oroweat Baking Co. and Edward M. Nagel. Pleas of nolo contendere. Each defendant fined \$100. (F. D. C. No. 24564. Sample Nos. 33001-K, 33007-K, 33011-K.)

INFORMATION FILED: May 12, 1948, Northern District of California, against the Oroweat Baking Co., a corporation, San Francisco, Calif., and Edward M. Nagel, president.

ALLEGED SHIPMENT: On or about September 9, 1947, from the State of California into the State of Nevada.

PRODUCT: 1 shipment of potato bread and 2 shipments of whole wheat bread.

LABEL, IN PART: "Oroweat * * * 100% Whole Wheat," or "Oroweat * * * Potato Bread."

NATURE OF CHARGE: Potato bread. Adulteration, Section 402 (b) (1), a valuable constituent, vitamin B₁, had been in part omitted. Misbranding, Section 403 (a), the label statement, "Six ounces of this bread supply you with at least the following amounts or percentages of your minimum requirements for these essential food elements: Vitamin B₁ 37%," was false and misleading since 6 ounces of the product would supply less than 37½ percent of the minimum daily requirements for vitamin B₁.

Whole wheat bread, one shipment. Misbranding, Section 403 (a), the label statement, "The 700 units of Vitamin B₁ in this loaf are the Natural Vitamins present in first quality 100% whole wheat and are not synthetic or artificially added," was false and misleading since the loaf would provide less than 700 units of vitamin B₁.

Potato bread and both lots of whole wheat bread. Misbranding, Section 403 (k), the products contained a chemical preservative, a propionate, and failed to bear labeling stating that fact.

DISPOSITION: June 4, 1948. Pleas of nolo contendere having been entered, the defendants were each fined \$100.

13222. Adulteration of cake. U. S. v. Crescent Cake Co. and Edwin C. Stanley. Pleas of nolo contendere. Fines of \$250 against corporation and \$500 against individual. (F. D. C. No. 24513. Sample Nos. 12302-K, 13008-K, 13011-K, 13015-K, 13016-K.)

INFORMATION FILED: March 18, 1948, Eastern District of Pennsylvania, against the Crescent Cake Co., a corporation, Philadelphia, Pa., and Edwin C. Stanley, president.

ALLEGED SHIPMENT: Between the approximate dates of September 10 and 30, 1947, from the State of Pennsylvania into the States of New Jersey and Maryland.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a filthy substance by reason of the presence of insect parts, rodent hair fragments, whole insects, a cat hair fragment, and an ant; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: May 27, 1948. Pleas of nolo contendere having been entered on behalf of the defendants, the court imposed fines of \$250 against the corporation and \$500 against the individual.

13223. Misbranding of cakes. U. S. v. American Lady Bakers, Inc. Plea of nolo contendere. Fine, \$500. (F. D. C. No. 24544. Sample Nos. 28435-K to 28437-K, incl., 28440-K, 28441-K.)

INFORMATION FILED: April 19, 1948, District of Colorado, against American Lady Bakers, Inc., Denver, Colo.

ALLEGED SHIPMENT: On or about November 20 and 21, 1947, from the State of Colorado into the States of South Dakota, New Mexico, and Wyoming.

LABEL, IN PART: "American Lady 10 Oz. or over [or "12 Oz. or over," or "15 Oz. or over"]."

NATURE OF CHARGE: Misbranding, Section 403 (e) (2), the products were in package form and failed to bear a label containing an accurate statement of the quantity of the contents, since they were labeled "10 Oz. [or "12 Oz." or "15 Oz.]," but weighed less than the labeled weights.

DISPOSITION: June 3, 1948. A plea of nolo contendere having been entered on behalf of the defendant, the court imposed a fine of \$100 on each of the 5 counts of the information.

13224. Adulteration of cookies. U. S. v. Good Taste Cookie Kitchens, Inc. Plea of guilty. Fine, \$420. (F. D. C. No. 24084. Sample Nos. 26932-K to 26934-K, incl.)

INFORMATION FILED: February 2, 1948, Eastern District of Missouri, against Good Taste Cookie Kitchens, Inc., St. Louis, Mo.

ALLEGED SHIPMENT: On or about October 8, 16, and 20, 1947, from the State of Missouri into the State of Illinois.

LABEL, IN PART: "Good Taste 15¢ Black Walnut [or "Oatmeal"] Cookies."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a filthy substance by reason of the presence of insects and insect fragments; and, Section 402 (a) (4), it had been prepared and packed under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: On February 24, 1948, a plea of guilty having been entered, a fine of \$400 was imposed on count 1. Imposition of sentence on the other two counts was deferred pending a reinspection of the defendant's premises. On June 7, 1948, upon receipt of a report that the reinspection had shown that the firm was operating in essentially a satisfactory manner, the court fined the defendant \$10 on each of the remaining two counts.

13225. Adulteration and misbranding of coconut macaroons. U. S. v. 68 Cases * * *. (F. D. C. No. 24322. Sample No. 505-K.)

LIBEL FILED: On or about February 2, 1948, Northern District of Georgia.

ALLEGED SHIPMENT: On or about December 10, 1947, by the Haddock Distributing Corp., Atlanta, Ga., to New York, N. Y., consigned to the original shipper, the Stewart-Walker Corp. The shipment was refused by the latter company and returned to Atlanta.

PRODUCT: 68 cases, each containing 24 5-ounce cans, of coconut macaroons at Atlanta, Ga.

LABEL, IN PART: "Stewart's Coconut Macaroons * * * Baked Expressly For Stewart-Walker Corp., New York, N. Y."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product was unfit for food by reason of being rancid.

Misbranding, Section 403 (d), the container was so filled as to be misleading, since an average of 6 additional macaroons could be placed in each can. (Each can contained an average of 23 macaroons.)

DISPOSITION: March 24, 1948. Default decree of condemnation and destruction.

13226. Adulteration of cookies and crackers. U. S. v. United Biscuit Co. of America, a corporation (Lakeside Biscuit Co.), and Arthur E. Woodgate, Jr. Pleas of nolo contendere. Corporation fined \$500 and costs and individual defendant fined \$100 and costs. (F. D. C. No. 24779. Sample Nos. 73783-H, 73784-H, 73786-H, 73787-H.)

INFORMATION FILED: May 27, 1948, Northern District of Ohio, against the United Biscuit Co. of America, trading at Toledo, Ohio, as the Lakeside Biscuit Co., and Arthur E. Woodgate, Jr., vice-president and general manager in charge of the Toledo, Ohio, plant.

ALLEGED SHIPMENT: On or about August 28, 1947, from the State of Ohio into the State of Michigan.

LABEL, IN PART: (Boxes) "Baker Maid Graham Crackers," "Baker Maid Crackers," "Milkolet Grahams," or "Lakeside Ginger Snaps."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a filthy substance by reason of the presence of insect fragments, an insect, a larva, and rodent hair fragments; and, Section 402 (a) (4), it had been prepared and packed under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: June 7, 1948. Pleas of nolo contendere having been entered, the corporation was fined \$500 and costs and the individual defendant was fined \$100 and costs.

13227. Adulteration of graham crackers and cracker meal. U. S. v. 310 Cartons, etc. (F. D. C. No. 24614. Sample Nos. 6688-K, 6690-K.)

LIBEL FILED: April 28, 1948, Northern District of Ohio.

ALLEGED SHIPMENT: On or about April 1 and 5, 1948, by the Colonial Biscuit Co., from Pittsburgh, Pa.

PRODUCT: 310 cartons, each containing 6 1-pound packages, of graham crackers and 68 cartons, each containing 6 10-ounce packages, of cracker meal at Youngstown, Ohio.

LABEL, IN PART: "Honey Flavored Graham Crackers," or "Cracker Meal."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent hair fragments; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: May 21, 1948. Default decree of condemnation and destruction.

CORN MEAL*

13228. Adulteration of corn meal. U. S. v. Louisa Supply Co., Inc., and Charles R. Wooten. Pleas of guilty. Fines of \$800 against corporation and \$200 against individual. (F. D. C. No. 24092. Sample Nos. 83449-H, 83451-H, 83452-H, 83458-H.)

INFORMATION FILED: February 4, 1948, Eastern District of Kentucky, against Louisa Supply Co., Inc., Louisa, Ky., and Charles R. Wooten, secretary and treasurer.

ALLEGED SHIPMENT: On or about August 15, 21, 22, and 27, 1947, from the State of Kentucky into the State of West Virginia.

LABEL, IN PART: "Louisa Meal."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a filthy substance by reason of the presence of rodent excreta fragments, insect larvae, insect fragments, rodent hair fragments, and an insect; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: May 24, 1948. Pleas of guilty having been entered on behalf of the defendants, the court imposed fines of \$800 against the corporation and \$200 against the individual.

3229. Adulteration of corn meal. U. S. v. Shawnee Milling Co. (Hugo Milling Co.). Plea of nolo contendere. Fine, \$300. (F. D. C. No. 23583. Sample Nos. 86604-H, 86606-H.)

INFORMATION FILED: On or about October 6, 1947, Eastern District of Oklahoma, against the Shawnee Milling Co., a corporation, trading as the Hugo Milling Co., Hugo, Okla.

*See also No. 13233.

ALLEGED SHIPMENT: On or about April 18 and 23, 1947, from the State of Oklahoma into the State of Arkansas.

LABEL, IN PART: "Hugo Pride Cream Meal."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insects, insect fragments, and rodent excreta fragments; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: March 8, 1948. A plea of nolo contendere having been entered, a fine of \$300 was imposed.

13230. Adulteration of corn meal. U. S. v. 216 Bags, etc. (F. D. C. No. 25007. Sample No. 969-K.)

LIBEL FILED: July 7, 1948, Middle District of Alabama.

ALLEGED SHIPMENT: On or about June 8, 1948, by Happyvale Flour Mills, from Fort Valley, Ga.

PRODUCT: 216 10-pound bags, 58 25-pound bags, and 17 5-pound bags of corn meal at Hurtsboro, Ala.

LABEL, IN PART: "Water Ground Type Happyvale White Corn Meal."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent excreta, insects, and insect parts.

DISPOSITION: August 3, 1948. Default decree of condemnation. The product was ordered delivered to a State institution, for use as animal feed.

13231. Adulteration of corn meal and hominy grits. U. S. v. Edward R. Zimmerman (Zimmerman & Co.). Plea of guilty. Fine, \$125. (F. D. C. No. 24101. Sample Nos. 3624-K, 3625-K.)

INFORMATION FILED: February 26, 1948, Eastern District of North Carolina, against Edward R. Zimmerman, trading as Zimmerman & Co., Elizabeth City, N. C.

ALLEGED SHIPMENT: On or about October 16, 1947, from the State of North Carolina into the State of Virginia.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the products consisted in part of filthy substances by reason of the presence of insect larvae, larval heads, cast skins and head capsules, insect parts and fragments, rodent excreta pellet fragments, and rodent hair fragments; and, Section 402 (a) (4), they had been prepared and packed under insanitary conditions whereby they may have become contaminated with filth.

DISPOSITION: March 22, 1948. A plea of guilty having been entered on behalf of the defendant, the court imposed fines of \$75 on count 1 and \$50 on count 2.

FLOUR

Nos. 13232 to 13237 report actions involving flour that was insect- or rodent-infested, or both. (In those cases in which the time of contamination was known, that fact is stated in the notice of judgment.)

13232. Action to enjoin and restrain the interstate shipment of doughnut flour, prepared mixes, liquid extracts, and other food products. U. S. v. H. M. Wagner & Co., Inc., The Wagner Products Co., H. Milton Wagner, and A. Clarence Purcell. Consent decree granting injunction. (Inj. No. 177.)

COMPLAINT FILED: September 26, 1947, District of Maryland, against H. M. Wagner & Co., Inc., the Wagner Products Co., a corporation, Baltimore, Md., H. Milton Wagner, president of both corporations, and A. Clarence Purcell, vice-president, acting secretary, and treasurer of the Wagner Products Co.

NATURE OF CHARGE: That defendant H. M. Wagner & Co., Inc., was engaged in the business of selling doughnut flour, prepared mixes, liquid extracts, and other food products, for use in the manufacture of baked goods; and that defendant the Wagner Products Co. was engaged in the business of manufacturing these food products. The complaint alleged that the defendants had been and were still introducing and delivering for introduction into interstate commerce at Baltimore, Md., doughnut flour, prepared mixes, liquid extracts, and other food products which were adulterated in the following respects:

Section 402 (a) (3), they consisted in part of filthy substances, such as insects, larvae, larval cast skins, insect fragments, pupae, larval head capsules, mites, insect eggs, feather fragments, and rodent hair fragments; and, Section 402 (a) (4), they had been and were being prepared under insanitary conditions whereby they may have become contaminated with filth.

The complaint alleged further that the insanitary conditions under which the foods had been prepared consisted of the presence of insects, rodents, insect and rodent excreta, and other filthy substances, in and around the plant where the foods were prepared and stored, in and around the raw materials and substances from which the foods were prepared, and in and around the machinery and equipment used in the manufacture of the foods, thereby subjecting the finished foods and the raw materials from which they are made to contamination by insects, rodents, insect and rodent excreta, and other filthy substances; and that although the defendants had been advised of the insanitary conditions under which the foods were being manufactured, and of the contamination to which the foods and raw materials were subjected, they continued to introduce and deliver the foods for shipment in interstate commerce.

PRAYER OF COMPLAINT: That the defendants be perpetually enjoined from commission of the acts complained of; and that a preliminary injunction be granted during the pendency of the action.

DISPOSITION: October 28, 1947. The defendants having filed an answer to the complaint, but having consented to the entry of a decree, the court issued an order enjoining the defendants from introducing or delivering for introduction into interstate commerce foods and food products, specifically doughnut flour, prepared mixes, and liquid extracts, which they have manufactured and prepared for shipment, or would in the future manufacture and prepare for shipment.

13233. Adulteration of flour and corn meal. U. S. v. Henry Stanley White (Cadiz Milling Co.). Plea of guilty. Fine, \$1,000 on each of 2 counts, plus costs; fine on count 2 suspended. Defendant placed on probation for 2 years. (F. D. C. No. 24530. Sample Nos. 83173-H, 83434-H.)

INFORMATION FILED: April 24, 1948, Western District of Kentucky, against Henry Stanley White, trading as the Cadiz Milling Co., Cadiz, Ky.

ALLEGED SHIPMENT: On or about July 22 and August 5, 1947, from the State of Kentucky into the State of Tennessee.

LABEL, IN PART: "Admiration Flour," or "Cream Meal."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the products consisted in part of filthy substances by reason of the presence of rodent excreta fragments, rodent hair fragments, insect fragments, and larvae; and, Section 402 (a) (4), they had been prepared and packed under insanitary conditions whereby they may have become contaminated with filth.

DISPOSITION: June 14, 1948. A plea of guilty having been entered on behalf of the defendant, the court imposed a fine of \$1,000 on each of 2 counts, plus costs. The fine on count 2 was suspended, and the defendant was placed on probation for 2 years.

13234. Adulteration of flour. U. S. v. 600 Bags * * *. (F. D. C. No. 24951. Sample No. 19905-K.)

LIBEL FILED: June 14, 1948, Southern District of Ohio.

ALLEGED SHIPMENT: On or about May 13, 1948, by Tennant and Hoyt, Lake City, Minn.

PRODUCT: 600 100-pound bags of flour at Columbus, Ohio.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insect fragments; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: June 15, 1948. Tennant and Hoyt, claimants, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond to be converted into stock feed, under the supervision of the Food and Drug Administration.

13235. Adulteration of flour. U. S. v. 188 Bags * * *. (F. D. C. No. 25001. Sample No. 45801-K.)

LIBEL FILED: July 7, 1948, Western District of Tennessee.

ALLEGED SHIPMENT: On or about January 13 and February 23, 1948, from Jackson, Mo.

PRODUCT: 188 25-pound bags of flour at Memphis, Tenn.

NATURE OF CHARGE: Section 402 (a) (3), the product was adulterated while held for sale after shipment in interstate commerce, in that it consisted in whole or in part of a filthy substance by reason of the presence of insects.

DISPOSITION: July 12, 1948. The shipper having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered delivered to a public institution to be denatured for use as animal feed, under the supervision of the Food and Drug Administration.

13236. Adulteration of flour. U. S. v. 100 bags, etc. (and 1 other seizure action). (F. D. C. Nos. 24860, 24861. Sample Nos. 8303-K, 8304-K.)

LIBEL FILED: June 2, 1948, District of New Jersey.

ALLEGED SHIPMENT: On or about April 27 and 30, 1948, by Flory Milling Co., Inc., from Bangor, Pa.

PRODUCT: Flour. 100 25-pound bags and 100 100-pound bags at Harrison, N. J., and 600 100-pound bags at Clifton, N. J.

LABEL, IN PART: "National Flour."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insect fragments and rodent hair fragments; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: July 26, 1948. Flory Milling Co., Inc., claimant, having admitted the allegations of the libels and the cases having been consolidated, judgment of condemnation was entered and the product was ordered released under bond to be denatured for use in the manufacture of animal feed, under the supervision of the Food and Drug Administration.

13237. Adulteration of flour. U. S. v. 384 Bags * * *. (F. D. C. No. 22579. Sample Nos. 43511-H, 70692-H.)

LIBEL FILED: February 26, 1947, Southern District of California.

ALLEGED SHIPMENT: On or about December 5, 1946, by Chehalem Valley Mills, from Newberg, Oreg.

PRODUCT: 384 bags of flour, each containing 100 pounds, at Los Angeles, Calif.

LABEL, IN PART: "White Swan Pastry Flour," or "White Star Fancy * * * Cake And Pastry Flour."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent urine; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: March 19, 1947. R. M. Thurston and Thomas A. Pfund, partners, Newberg, Oreg., claimants, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond to be disposed of for animal feed, under the supervision of the Food and Drug Administration.

MISCELLANEOUS CEREAL PRODUCTS*

13238. Adulteration of brewers corn grits. U. S. v. 2,680 Bags * * *. (F. D. C. No. 25010. Sample No. 19918-K.)

LIBEL FILED: July 7, 1948, Southern District of Ohio.

ALLEGED SHIPMENT: On or about March 12, 1948, by the Chas. A. Krause Milling Co., Milwaukee, Wis.

PRODUCT: 2,680 100-pound bags of brewers corn grits at Columbus, Ohio.

*See also No. 13231.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product was adulterated while held for sale after shipment in interstate commerce, since it consisted in whole or in part of a filthy substance by reason of the presence of larvae and insect parts.

DISPOSITION: July 22, 1948. Ohio Brewery, Inc., Columbus, Ohio, claimant, having consented to the entry of the decree, judgment of condemnation was entered and the product was ordered released under bond to be converted into stock feed, under the supervision of the Food and Drug Administration.

13239. Adulteration of popcorn. U. S. v. The Bilmar Co., Inc., and William G. Ritton. Pleas of guilty. Fine of \$400 against each defendant. (F. D. C. No. 23576. Sample Nos. 61356-H, 85630-H, 90648-H, 90650-H.)

INFORMATION FILED: November 5, 1947, against Bilmar Co., Inc., Parkersburg, W. Va., and William G. Ritton, president.

ALLEGED SHIPMENT: On or about May 14 and 23, and June 7, 1947, from the State of West Virginia into the States of Virginia and Ohio.

LABEL, IN PART: "Selected Pop Corn, Vegetable Oil, and Salt * * * Manufactured by The Bilmar Company Parkersburg West Virginia."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a filthy substance by reason of the presence of adult insects, insect larvae, insect parts, pupae, pupal cases, and rodent hair fragments; and, Section 402 (a) (4), the product had been prepared and packed under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: November 10, 1947. Pleas of guilty having been entered on behalf of the defendants, the court imposed a fine of \$100 on each count against each defendant, a total fine of \$800.

13240. Adulteration of popcorn. U. S. v. 83 Cases * * *. (F. D. C. No. 22478. Sample No. 50858-H.)

LIBEL FILED: February 6, 1947, District of Minnesota.

ALLEGED SHIPMENT: On or about March 25, 1946, by the Rustic Glen Foods, from Joliet, Ill.

PRODUCT: 83 cases, each containing 24 10-ounce packages, of popcorn at Minneapolis, Minn.

LABEL, IN PART: "Rustic Glen Brand Popcorn."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent excreta, rodent-gnawed kernels, and weevils.

DISPOSITION: March 27, 1947. Default decree of condemnation. The product was ordered denatured, for use as animal feed, under the supervision of the Food and Drug Administration, or destroyed.

CHOCOLATE AND CONFECTIONERY

13241. Adulteration of chocolate candy. U. S. v. 200 Cartons * * * (and 2 other seizure actions). (F. D. C. Nos. 24579, 24598, 24687. Sample Nos. 8097-K, 18238-K, 30937-K.)

LIBELS FILED: March 25 and 31 and April 15, 1948, District of Connecticut, Southern District of California, and Northern District of Ohio.

ALLEGED SHIPMENT: On or about February 24, 26, and 27, 1948, by Rockwood & Co., from Brooklyn, N. Y.

PRODUCT: Chocolate candy. 200 cartons, each containing 48 13-ounce packages, at Los Angeles, Calif., 40 cases, each containing 5 10-pound slabs, at Cleveland, Ohio, and 6 cases, each containing 25 pounds, at Waterbury, Conn.

LABEL, IN PART: "Rockwood Mint Wafers," "Amber Milk Chocolate," or "Foiled Milk Chocolate Cups."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insect fragments, rodent hairs, and rodent hair fragments; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: May 4 and 12, 1948. Default decrees of condemnation and destruction.

13242. Adulteration of chocolate. U. S. v. 5 Drums * * * (and 1 other seizure action). (F. D. C. Nos. 25099, 25100. Sample Nos. 9853-K, 9854-K.)

LIBELS FILED: July 16, 1948, Southern District of New York.

ALLEGED SHIPMENT: On or about June 10 and 11, 1948, by the Norma Chocolate Works, Bethlehem, Pa.

PRODUCT: Chocolate. 5 50-pound drums and 3 275-pound barrels at New York, N. Y.

LABEL, IN PART: (Barrel) "Dark Norma Brand Grains Chocolate."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insect parts and rodent hair fragments; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: July 29, 1948. Default decrees of condemnation and destruction.

13243. Adulteration of chocolate candy. U. S. v. 876 Boxes * * * (and 1 other seizure action). (F. D. C. Nos. 24599, 24600, 24682. Sample Nos. 3330-K, 22535-K, 22536-K.)

LIBELS FILED: March 19 and April 14, 1948, District of Maryland and Western District of Texas.

ALLEGED SHIPMENT: On or about February 13 and 17, 1948, by La Fond Chocolatier, Bronx, N. Y.

PRODUCT: Candy. 876 boxes at San Antonio, Tex., and 28 cases, each containing 36 boxes, at Baltimore, Md.

LABEL, IN PART: "Little King Chocolate Candy 80 pieces."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insect fragments and rodent hair fragments; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: April 21 and June 9, 1948. Default decrees of forfeiture and destruction.

13244. Adulteration of candy. U. S. v. 55 Boxes * * *. (F. D. C. No. 24584. Sample No. 18689-K.)

LIBEL FILED: April 1, 1948, Southern District of Ohio.

ALLEGED SHIPMENT: On or about December 16, 1947, by the Whitson Candy Co., from Knoxville, Tenn.

PRODUCT: 55 boxes, each containing 24 1¼-ounce sticks, of candy at Cincinnati, Ohio.

LABEL, IN PART: "Whitson's Old Fashioned Pure Sugar Stick Candy."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insect fragments and rodent hair fragments; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: June 4, 1948. Default decree of condemnation and destruction.

13245. Adulteration of candy. U. S. v. 99 Boxes * * *. (F. D. C. No. 24483. Sample Nos. 19086-K, 19087-K.)

LIBEL FILED: March 12, 1948, Southern District of Ohio.

ALLEGED SHIPMENT: On or about February 23, 1948, by the Whitson Candy Co., from Knoxville, Tenn.

PRODUCT: 99 boxes, each containing 120 sticks, and 57 boxes, each containing 24 sticks, of candy at Cincinnati, Ohio.

LABEL, IN PART: "Whitson's Pure Sugar Full Value Penny Stick Candy," and "Whitson's Genuine Old Fashioned Peppermint Stick Candy Average Net Weight 1¾-Ozs. or more."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insect fragments and rodent hair fragments; and, Section 402 (a) (4), it had been pre-

pared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: June 4, 1948. Default decree of condemnation and destruction.

13246. Adulteration of candy. U. S. v. 174 Boxes * * *. (F. D. C. No. 24432. Sample No. 24149-K.)

LIBEL FILED: February 4, 1948, Southern District of Iowa.

ALLEGED SHIPMENT: On or about January 9, 1948, by the Murphy Candy Co., from La Crosse, Wis.

PRODUCT: 174 boxes, each containing 1 pound, of candy at Davenport, Iowa.

LABEL, IN PART: "Murphy's Old Fashioned Chocolates One Pound Net."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insect fragments and rodent hair fragments; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: April 14, 1948. Default decree of condemnation and destruction.

13247. Adulteration of Turkish paste. U. S. v. 48 Boxes * * * (and 1 other seizure action). (F. D. C. Nos. 24749, 24751. Sample Nos. 9778-K, 9779-K, 9905-K, 9906-K.)

LIBELS FILED: On or about May 3 and 5, 1948, Eastern District of New York.

ALLEGED SHIPMENT: On or about April 1, 1948, by the Smyrna Lowell Confectionery Co., from Lowell, Mass.

PRODUCT: 88 boxes of Turkish paste at Brooklyn, N. Y.

LABEL, IN PART: "Turkish Paste Turkish Lakoom 1 Lb. Net."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent hair fragments; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: June 3, 1948. Default decrees of condemnation and destruction.

13248. Adulteration of candied popcorn. U. S. v. 34 Cartons * * * (and 5 other seizure actions). (F. D. C. Nos. 22545, 22606, 22607, 22626, 22627, 23045. Sample Nos. 40488-H, 40489-H, 50283-H, 50284-H, 52074-H, 70024-H.)

LIBELS FILED: Between February 19 and June 16, 1947, District of Minnesota, Southern, Eastern, and Northern Districts of Illinois, and Northern District of Alabama.

ALLEGED SHIPMENT: On or about January 28, 29, and 30, 1947, by the Krispy Kone Co., Des Moines, Iowa.

PRODUCT: Candied popcorn. 34 cases at Minneapolis, Minn., 52 cases at Granite City, Ill., 5 cases at East St. Louis, Ill., 19 cases at Birmingham, Ala., and 8 cases at Chicago, Ill., each case containing 36 3¼-ounce bags, and 5 20-pound cartons at East St. Louis, Ill.

LABEL, IN PART: "Krispy Brand Nuggets," "Nuggets," or "Nuggets Caramel Corn In Bulk."

NATURE OF CHARGE: Adulteration, Section 402 (a) (2), the product contained an added deleterious substance, mineral oil, which is unsafe within the meaning of the law, since it is a substance not required in the production of the food and could have been avoided by good manufacturing practice; and, Section 402 (d), the product was confectionery and it contained a nonnutritive substance, mineral oil.

DISPOSITION: Between March 24 and November 21, 1947. Default decrees of condemnation and destruction.

13249. Misbranding of candy. U. S. v. 73 Boxes, etc. (F. D. C. No. 24722. Sample No. 942-K.)

LIBEL FILED: April 20, 1948, Western District of South Carolina.

ALLEGED SHIPMENT: On or about March 17, 1948, by the Cooper Candy Co., from Atlanta, Ga.

PRODUCT: 73 boxes, each containing 160 pieces, of unlabeled candy, 1 unlabeled candy bar, and 16 labeled candy bars.

LABEL, IN PART: (Boxes) "Pick a Pink"; (labeled bars) "Cooper's Nut Fudge Average weight $1\frac{3}{4}$ ounces."

NATURE OF CHARGE: Misbranding, Section 403 (a), the name "Nut Fudge" was false and misleading, since the product contained little or no nuts; and, Section 403 (e) (2), the product failed to bear a label containing an accurate statement of the quantity of the contents. (The bars contained less than the labeled weight of $1\frac{3}{4}$ ounces.)

DISPOSITION: June 12, 1948. Default decree of condemnation. The product was ordered delivered to a charitable institution.

13250. Misbranding of marshmallow whip. U. S. v. 20 Cases * * *. (F. D. C. No. 24402. Sample No. 21083-K.)

LIBEL FILED: January 10, 1948, District of Nebraska.

ALLEGED SHIPMENT: On or about October 20, 1947, by the Tilwald Products Co., from Sioux City, Iowa.

PRODUCT: 20 cases, each containing 24 jars, of marshmallow whip at Hastings, Nebr.

LABEL, IN PART: "Sweet Sue Marshmallow Whip Net Contents 16 Fl. oz."

NATURE OF CHARGE: Misbranding, Section 403 (e) (2), the product was in package form and failed to bear a label containing an accurate statement of the quantity of the contents. (The jars contained less than the declared weight of 16 fluid ounces.)

DISPOSITION: On February 26, 1948, a default decree of condemnation and destruction was entered. On April 19, 1948, a supplemental decree was entered directing that the condemned property be delivered to a charitable institution.

DAIRY PRODUCTS

BUTTER

The following cases report actions involving butter that consisted in whole or in part of filthy or decomposed substances, Nos. 13251 to 13257; and that was below the standard for milk fat content, Nos. 13258 to 13263.

13251. Action to enjoin and restrain the interstate shipment of butter. U. S. v. Armour & Co., operating as Armour Creameries, from Meridian, Miss. Consent decree granting injunction. (Inj. No. 148.)

COMPLAINT FILED: April 10, 1947, Southern District of Mississippi, against Armour & Co., operating as Armour Creameries, Meridian, Miss. a corporation.

NATURE OF CHARGE: That the defendant since July 10, 1940, had been manufacturing, preparing, packing, and shipping butter in interstate commerce; that the butter so manufactured was adulterated as follows: Sections 402 (a) (3) and (4), it consisted in whole or in part of a filthy, putrid, and decomposed substance, in that it contained filth in the form of insects, insect fragments, rodent hairs, feather fragments, maggots, animal hairs, ants, flies, weevils, beetles, rat pellets, cat hairs, gnats, a wad of chewed chewing gum, mosquitoes, and nondescript dirt, and was unfit as a food for human consumption; that shipments of butter by the defendants had been sampled and seized and were found to contain mold, resulting from the fact that it had been made from cream all or a substantial portion of which was decomposed, and that said butter so seized had also contained filth; and that despite warnings by the Food and Drug Administration, the defendant had failed to remedy the conditions in the method of operation in the plant and was continuously manufacturing, preparing, packing, and shipping in interstate commerce adulterated butter; and that he would continue to ship such butter in interstate commerce, unless enjoined from so doing.

PRAYER OF COMPLAINT: That a preliminary injunction issue, and that, after due proceedings, the preliminary injunction be made permanent.

DISPOSITION: September 16, 1947. Armour & Co., operating as Armour Creameries, Meridian, Miss., having appeared and without admitting or denying the allegations of the complaint, having agreed to discontinue shipping in interstate commerce butter which was adulterated, and having consented to the entry of a decree, an order was entered permanently enjoining the defendant from shipping in interstate commerce adulterated butter manufactured or to be manufactured in the Meridian, Miss., plant.

13252. Action to enjoin and restrain the interstate shipment of butter. U. S. v. Harold H. Sherwood and Everett H. Burley (Randolph Creamery). Consent decree granting injunction. (Inj. No. 155.)

COMPLAINT FILED: November 5, 1947, District of Nebraska, against Harold H. Sherwood and Everett H. Burley, trading as the Randolph Creamery, a partnership, Randolph, Nebr.

NATURE OF CHARGE: That the defendants were engaged in the business of processing cream in the manufacture of butter, buttermilk, and ice cream. Approximately 90 percent of the butter was shipped in interstate commerce. On November 16, 1945, an inspection of the defendants' plant at Randolph, Nebr., revealed that practically all of the cream received at the plant was dirty and filthy by reason of the presence of insect, rodent, and other filth; that the incoming cream was used in the manufacture of butter without first screening or filtering it; and that the plant did not use a recording thermometer in attempting to pasteurize the cream, and the cream was not being completely pasteurized. The plant was found to be manufacturing the products under filthy conditions, in that the floor was covered with dirt, trash, dead insects, and roach and rodent excreta, and a large number of roaches and flies were noted in the cream receiving room and on the cream vats.

Sampling of interstate shipments of the butter showed that it was adulterated as follows: Section 402 (a) (3), it consisted in whole or in part of a filthy substance by reason of contamination with insects, insect fragments, rodent hair fragments, and other foreign matter; and, Section 402 (a) (4), it had been manufactured under insanitary conditions whereby it may have become contaminated with filth.

A reinspection of the plant on August 1, 1946, disclosed no improvement in plant conditions. All cream received was being used in the manufacture of butter, without grading or rejecting any of it because of its filthy condition. Samples of cream were found to contain flies, nondescript dirt, and rodent hair fragments.

The complaint alleged further that the filthy conditions disclosed by inspections had been called to the attention of the defendants, but that they continued and would continue the acts complained of unless restrained.

PRAYER OF COMPLAINT: That a preliminary injunction issue restraining the defendants from the commission of the acts complained of, and that, after due proceedings, the preliminary injunction be made permanent.

DISPOSITION: November 5, 1947. The defendants having consented to the entry of a decree, the court issued an order perpetually restraining and enjoining the defendants from shipping butter in interstate commerce which was adulterated in that it consisted in part of a filthy substance and had been prepared under insanitary conditions whereby it had become contaminated with filth.

13253. Action to enjoin and restrain the interstate shipment of butter. U. S. v. South Mountain Dairies, Inc. Consent decree granting injunction. (Inj. No. 188.)

COMPLAINT FILED: February 10, 1948, District of Maryland, against South Mountain Dairies, Inc., Middletown, Md.

NATURE OF CHARGE: That the defendant had been and was at the time shipping in interstate commerce, butter which was adulterated as follows: Section 402 (a) (3), it consisted in part of filthy substances by reason of the presence of rodent hairs, rodent hair fragments, insect fragments, feather fragments, mold, and other filth, and by reason of the use of filthy cream in the manufacture of the butter; and, Section 402 (a) (4), it had been prepared, packed, or held under insanitary conditions at the defendant's Middletown plant, whereby it may have become contaminated with filth.

The complaint alleged further that the insanitary conditions in the plant where the butter had been and was being prepared, packed, and held, resulted from and consisted of the presence of rodents, rodent excreta, bird excreta, and insects in and around places in the plant where butter had been and was being prepared, packed, and held, and in and around equipment and raw materials used for preparing, packing, and holding of butter, thereby contaminating the butter and subjecting it to contamination by rodents, birds, insects and their excreta, and other filth; that the defendant continued to ship in interstate commerce adulterated butter and would continue to ship such butter in interstate commerce, unless enjoined from so doing.

PRAYER OF COMPLAINT: That the defendants be perpetually enjoined from commission of the acts complained of, and that a preliminary injunction be granted during the pendency of the action.

DISPOSITION: June 15, 1948. * The defendant having filed an answer denying the manufacture and interstate shipment of adulterated butter but having consented to the entry of a decree without contest and before any testimony had been taken, the court issued an order perpetually enjoining the defendant and its officers, agents, and employees from shipping in interstate commerce any adulterated food products, specifically butter, which they had manufactured or prepared for shipment or would manufacture and prepare for shipment.

13254. Adulteration of butter. U. S. v. 24 Cans * * * (and 4 other seizure actions). (F. D. C. Nos. 2394, 3014, 3255, 3256, 3406. Sample Nos. 9003-E, 9019-E, 35357-E to 35359-E, incl.)

LIBELS FILED: On or about July 2 and 22 and October 9, 10, and 24, 1940, Northern District of Alabama.

ALLEGED SHIPMENT: On or about June 20, July 18, and October 2, 3, and 9, 1940, from the States of Georgia and Tennessee, by the Cloverleaf Butter Co., Inc.

PRODUCT: 24 cans containing a total of 1,833 pounds of ladled butter; 1 370-pound drum, 2 drums containing a total of 205 pounds, 4 cans containing a total of 50 pounds, 1 209-pound barrel, 7 tubs containing a total of 308 pounds, 5 drums containing a total of 1,781 pounds, and 16 tubs containing a total of 655 pounds, of packing stock butter at Birmingham, Ala. Analyses disclosed that the butter contained maggots, rodent hairs, flies, insects, insect fragments, insect eggs, mold, human hairs, and feather fragments.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the butter consisted in whole or in part of a filthy or decomposed animal substance.

DISPOSITION: The Cloverleaf Butter Co., Inc., Birmingham, Ala., having appeared as claimant and the seizure actions against the butter having been consolidated, the court, on February 17, 1942, over objections of the Government, ordered that the butter be delivered to the claimant for renovation; that a representative of the Food and Drug Administration be allowed to take a sample of the butter before and after renovation and to be present during the period of renovation; and that claimant's possession of the butter for purpose of renovation was to be as an agent of the court.

On March 31, 1942, a motion was filed on behalf of the Government to have the order of February 17, 1942, vacated and set aside, and on April 18, 1942, a further motion was filed to stay and suspend the effectiveness of such order pending determination of the motion to vacate. On October 4, 1943, after a number of continuances, the court overruled the Government's motions and entered a decree that the provisions of the order of February 17, 1942, should be carried out, on the basis that the shortage of butter due to wartime conditions warranted the renovation of the butter as provided for by such order. A motion to set aside the decree of October 4, 1943, was filed on October 14, and on October 19, 1943, was denied. Thereafter, a petition for a writ of mandamus was filed in the United States Circuit Court of Appeals for the Fifth Circuit, and on December 16, 1943, the following decision was handed down by that court:

SIBLEY, Circuit Judge: "The United States in 1940 brought five libels under the Federal Food and Drug and Cosmetic Act of 1938, to condemn five lots of 'ladle butter' and 'packing stock butter' transported in interstate commerce to Cloverleaf Butter Co., because adulterated in that it 'consists in part of a filthy animal substance.' On seizure, Cloverleaf Butter Co. claimed the material, denied the adulteration, prayed for a more definite statement or bill of particulars as to what sort of matter was intended to be relied on as constituting the adulteration; and as to whether all the containers seized were claimed to be so adulterated; and if not, which ones. In February, 1942, the cases were consolidated for trial, but instead of passing on the motions for a more definite statement or otherwise trying the case, an order was made to allow the claimant to take possession of the butter and renovate it. The United States filed a motion to vacate this order and stop its execution. This motion was pending, a stay being granted, till Oct. 4, 1943, when it was overruled and a new order made that the Marshal deliver the butter to the claimant at its renovating plant in Birmingham, for renovation, the identity

of the several lots to be preserved, and the custody of the court being maintained, and full provision being made for the taking of samples by both sides before and after renovation, all at the expense of claimant. Jurisdiction was retained to dispose of the butter afterwards as if this order had not been granted. The United States petitioned this court for a writ of mandamus to compel the judge to vacate this order as being without authority of law, and to set a date certain for the trial of the case, an appeal not yet being available. We ordered that the judge show cause why the case should not be at once tried.

"The judge in his response admits the proceedings as above, and gives as his reason why he should not be required to proceed to a final trial of the libels, without waiting for a renovation of the butter therein described, facts which he states he understands are true; in brief that claimant has conducted for twenty-five years a regularly licensed plant in Birmingham for processing and renovating butter, its product being taxed under 26 U. S. C. A. § 2321, and regulated by 26 U. S. C. A. § 2325; that the seized material is not transported nor about to be offered to the public as food, but is to be renovated and processed in the plant and then packed and branded and disposed of under the just cited law; that there is public need for butter, and if the material can as a finished product be so used it ought to be, rather than condemned; so that it is prudent and right to see what can be done with it before trying the libels for condemnation.

"We cannot by mandamus review or set aside the interlocutory order. Our only function at present is to decide whether the reason given for not presently trying the case is a good one. We do not think it is. The libels are filed expressly under the Federal Food, Drug and Cosmetic Act, 21 U. S. C. A. § 301, and following. For its purposes 'food' is defined as 'Articles used for food or drink for man or other animals' and 'Articles used for components of any such articles,' § 321 (f). The introduction into interstate commerce of any food that is adulterated is forbidden by Section 331 (a). Food is declared by Section 342 (a) (3) to be adulterated if it 'consists in whole or in part of any filthy matter.' An adulterated article of food when introduced into interstate commerce may be seized for condemnation by libel, Section 334 (a). By Section 334 (d) any food condemned shall be disposed of as the court may direct, and if sold the proceeds go to the United States; 'Provided, that after entry of the decree and upon payment of the costs of such proceeding and the execution of a good and sufficient bond . . . the court may by order direct that such article be delivered to the owner thereof to be destroyed or brought into compliance with the provisions of this Chapter, etc.' The Act thus provides for the saving from destruction of articles which ought to be saved, much as the judge has ordered here. It also provides in Section 334 (c) for sampling to ascertain the truth before trial. But the plan of the Act is to determine first whether what is seized is really food under the Act, and is really adulterated as alleged. If either is not true, the libel will be dismissed. If both are true, and decree is entered accordingly, then upon the conditions named in the Act the measures above quoted may be taken. We think the statutory proceedings ought to be precisely followed, and that no good reason is shown for further delaying to rule on the motions for a more definite statement and to bring the matter to a final trial.

"Let a copy of this opinion be certified to the judge for his guidance. A formal mandamus may hereafter be issued if necessary."

WALLER, *Circuit Judge*, dissenting: "I do not take issue with what has been said in the majority opinion in this case, but do take issue with the action of the Court in saying anything at all except to say 'Petition denied.' The opinion of this Court seems to correctly interpret the applicable part of Federal Food and Drug and Cosmetic Act, but the majority, in my view, has indulged in the vacuous pastime of writing an advisory opinion 'for the guidance' of the Court below.

"We were petitioned for a writ of mandamus—not for advice—and the petitioner has not shown itself to be entitled to such a writ. It is the universal rule that a relator in mandamus must positively show not only that a clear duty devolves upon the respondent to perform a duty but that relator has a clear right to the performance of that duty. The petitioner has wholly failed to show a clear right to performance of the alleged duty.

"The United States Attorney filed the libels in July, 1940, alleging that the food products were 'adulterated * * * in that it consists in whole or in part of a filthy animal substance.' It is not alleged that all of the cans of butter are adulterated, and nowhere were any facts alleged as to what the 'filthy animal substance' was. Claimant promptly filed a motion for a more definite statement or for a bill of particulars. It was clearly entitled to have a bill of particulars showing whether all cans were adulterated and also what filthy matter was claimed to be in the product sought to be condemned. The motion was filed July 16, 1940. The petitioner did not supply the bill of particulars, nor does the record show that it ever set the motion down for a hearing. It is difficult to see how claimant could prepare its defense in the absence of fuller information. The claimant has never answered. The case is not at issue, yet the United States Attorney is now shouting for a trial, and petitioning for a writ to require a trial when the case is not at issue and, for all the record shows, the delay is chargeable as much to him as to the claimant. Surely the Judge is not chargeable with the defect of petitioner's pleading in lack of specificity. The United States Attorney evidently was possessed of the information as to the alleged filthy animal substance because he now goes entirely out of the record and repeatedly asserts in his brief—which he surely knows is no substitute for pleading—that the butter contains maggots, dirt, hair, feather and maggot fat and other filthy matters.

"The United States Attorney has not placed himself in position to insist that he has a clear right to have the respondent proceed to an immediate trial. Furthermore, he is seeking by mandamus to have this Court review an interlocutory order of the Court below. In this he succeeded. Mandamus is not a substitute for appeal. The action of the Court below may have been irregular, but no one is injured except perhaps the claimant. All costs of renovation are placed on it. Jurisdiction is retained. The court can order renovated butter condemned as well as it can unrenovated butter. It is not being eaten while in custody of the Court.

"Petitioner is not hurt but he hollered nevertheless.

"I respectfully dissent."

Upon the return of the case to the district court, a motion to dismiss was filed on behalf of the claimant on January 27, 1944, and on March 24, 1944, the court granted the claimant's motion and ordered that the butter be delivered to the claimant. A notice of appeal to the United States Circuit Court of Appeals for the Fifth Circuit was filed on behalf of the Government on March 28, 1944, and on March 27, 1945, the following opinion was handed down by that court:

HUTCHESON, *Circuit Judge*: "Cloverleaf Butter Company is an operator in Birmingham, Alabama, under federal license, of a renovated butter factory.¹ Claiming that packing stock butter consigned to Cloverleaf was adulterated in that it consisted in whole or in part of a filthy or decomposed animal substance, the United States brought libels of condemnation under the Federal Food, Drug and Cosmetic Act of 1938.² Urging successfully below against condemnation under the Federal Food and Drug Act what it had urged successfully in its injunction suit against the state authorities, that the handling and use of packing stock butter was governed exclusively by the Renovated Butter Act and the regulations promulgated by the Secretary of Agriculture thereunder, and that the materials which it used in its factory were not subject to seizure, claimant obtained an order dismissing the libels. Appealing from the order, the United States, in support of its position that the Food and Drug Act does apply and the seized products may be libelled under it, points to the admitted fact that the seized stock is used as a component of renovated butter, to the language of the Act which authorizes the seizure of any food which is adulterated, and to Section 321 (f), Title 21, which defines food to mean 'articles used for food or drink for man or other animals * * * and (3) articles used for components of any such articles.' It points, too, to the opinion

¹ See *Cloverleaf Butter Co. v. Patterson*, 315 U. S. 148, 786, 62 S. Ct. 491, 86 L. Ed. 754, an injunction suit against condemnation by state authorities of packing stock butter, in which claimant's activities are fully set out and it was held by a divided court that the Renovated Butter Act of 1902, as amended 26 U. S. C. Int. Rev. Code § 2320 to 2327 excluded state action.

² Sec. 402 (a) (3), 21 U. S. C. A. § 342 (a) (3).

of this court in *Re United States*, 140 F. 2d 19, 20, directing the district court to proceed under the libels to determine whether the seized product 'is really food under the Act; and is really adulterated as alleged' and to enter its decree accordingly. Finally, it points to the holding of the majority in *Cloverleaf Butter Co. v. Patterson*, 315 U. S. 148, 786, 62 S. Ct., 491, 86 L. Ed. 754:

" 'Further, we agree with respondent's contention that there is no authority to confiscate or destroy materials under the renovated butter act. It should be noted that packing stock adulterated under the definitions of § 402 of the Federal Food, Drug, and Cosmetic Act, 52 Stat. 1046, 21 U. S. C. A. § 342, when introduced into or while in interstate commerce may be confiscated under § 304, 21 U. S. C. A. § 344 while in the interstate commerce or at any time thereafter. Cf. *United States v. Nine Barrels of Butter*, D. C., 241 F. 499.' 315 U. S. at page 163, 62 S. Ct. at page 500, 86 L. Ed. 754.

" '* * * Confiscation by the state of material in production nullifies federal discretion over ingredients.' 315 U. S. at page 168, 62 S. Ct. at page 502, 86 L. Ed. 754.

" '* * * To uphold the power of the State of Alabama to condemn the material in the factory while it was under federal observation and while federal enforcement deemed it wholesome would not only hamper the administration of the federal act but would be inconsistent with its requirements. Whether the sanction used to enforce the regulation is condemnation of the material or the product is not significant. Since there was federal regulation of the materials and composition of the manufactured article, there could not be similar state regulation of the same subject.' 315 U. S. at page 169, 62 S. Ct. at page 503, 86 L. Ed. 754.

"Cloverleaf, on its part, points to the provision of the Renovated Butter Act, to the history of the renovated butter industry, and to the holding of the Supreme Court in the Cloverleaf case, that the act assumes, and, in view of the character of the industry must assume, that all packing stock from which renovated butter is made is more or less adulterated, and, therefore, the scheme of the act is to subject the finished product, rather than its ingredients, to the inspection and scrutiny of the Department of Agriculture. So pointing, it insists that if the Food and Drug Act is held to apply, renovated butter cannot be made, and that there is, therefore, such an inconsistency between the two statutes as that as to ingredients of renovated butter, the Renovated Butter Act supersedes and excludes the Food and Drug Act and its administrators. Relying heavily on the opinion of the majority of the Supreme Court in the Cloverleaf case, that Congress had, in the Renovated Butter Act, assumed for the Department of Agriculture such complete control over the field as to oust state inspection and state supervision of ingredients, Cloverleaf insists that the same reasoning which supported the decision in its favor there compels one in its favor here, leaving it as to the components of its finished product completely immune from their seizure and condemnation.

"[1-4] We cannot at all agree. We accept, as we must until it is reversed, the view of the majority, that as between state and federal power, an act which does not give the Department of Agriculture the right to inspect and condemn filthy ingredients of renovated butter, has yet pre-empted the field as against state inspection and condemnation of such filthy substances. Nothing, however, in the opinion lends support to the view which the exigencies of its situation require Cloverleaf now to advance, that the Renovated Butter Act has pre-empted the field for the Department of Agriculture not only as against state action but as against federal action as well. The authoritative statement of the majority opinion that though the Renovated Butter Act made no provision for the seizure by the Department of Agriculture of butter stock, inspection and seizure of filthy and otherwise adulterated stock could be had under the Food and Drug Act, and, therefore, it could not be successfully claimed that filthy packing stock was immune from seizure, completely destroys appellee's position that the one federal act is exclusive of the other. Indeed, unless the statement in one of the dissenting opinions in that case that 'The result of this decision is to deny Alabama the power to protect the health of its citizens without replacing such protection by that of the federal government' is to be accepted, despite the disclaimer of the majority, it must be held that it was certainly not intended by Congress to leave packing stock butter manu-

facturers completely free to use in making their completed product any kind of filthy and putrid material they chose to use in the faith, the substance of things hoped for, the evidence of things not seen, that, in homely phrase, it will all come out in the wash. When the Food and Drug Act is considered in the light of its purpose to protect the public from adulterated and unfit materials, it would take the strongest kind of showing that its protective provisions had been limited not directly but by implication, and Cloverleaf, in maintaining that position here has a heavier burden than it can bear. It does, indeed, show that the renovating process is well adapted to remove all impurities, that renovated butter is good butter, that all packing stock has to be renovated, that all of it comes into the plant more or less adulterated with extraneous and deleterious substances in it, or otherwise unfit in its then condition for human food, and that if all packing stock were to be condemned because not fit for human food, no matter how slight the adulteration, the renovated butter industry could not survive. But these considerations are for Congress, and if Congress had intended to take packing stock butter out of the Food and Drug Act, it could very easily have done so either by amending the statutory definition of food to exclude materials that go into the finished product or by expressly excluding from the Act ingredients of renovated butter. Implied repeal or limitation of one act by another is never favored. It is not for the courts, unless the conflict between two acts is inescapable and compelling, to exclude from the coverage of an act matters which its terms expressly include, on the theory that another act, whose general purpose seems inconsistent has impliedly repealed or limited the act under review. Only where it is found that it is not possible for both acts to co-exist can an act be held to repeal or limit another, and then only in respect to the precise point of conflict. It certainly cannot be said that there is any fatal inconsistency between the two acts here. If Congress wanted to encourage the making of packing stock butter out of any materials that the manufacturers can get hold of in reliance on their claims that no matter how filthy the ingredients, the finished products will be pure, or the impurity can be, or will be, detected, it could, of course, take packing stock butter out of the Food and Drug Act. We find no support in the acts for a finding of a repealer by implication, indeed, we think it plain that there is no necessary inconsistency between them. What was intended by the Renovated Butter Act, and all that was intended, was that renovated butter could be made out of stock which, while not in its then state fit for human consumption, was yet not so unfit as to require its condemnation. It was not intended that renovated butter be made out of any kind of stock, no matter how filthy or putrid, in the pious hope that its filthiness and putrescence would, in the process of renovating, be purged away. Thus Congress, while authorizing the making of renovated butter, left to proper administration the supervision of the ingredients, authorizing their seizure and condemnation whenever they were of such character as to be deemed deleterious or otherwise unfit for use. The libels were wrongfully dismissed. The judgments dismissing them are reversed and the causes are remanded with directions to proceed with the libels, in accordance with our former opinion in 140 F. 2d 19, and herewith."

Following the remanding of the case to the district court, motion was made by the claimant for a bill of particulars to show what filthy animal substance was alleged to be in each of the containers of the butter. The claimant also filed a motion to be allowed to take samples from each of the containers of the butter. On January 21, 1946, the court entered orders granting the motions. Thereafter, a motion was filed on behalf of the Government to set aside the order for a bill of particulars on the ground that the rules of civil procedure did not apply but that the proceedings of libel cases under the Federal Food, Drug, and Cosmetic Act should conform, as nearly as may be, to proceedings in admiralty. On February 1, 1946, the court having considered the arguments and brief of counsel, rendered an opinion that the claimant's motion for a bill of particulars was in substance within Rule 27 of the Admiralty Rules which provide for exceptions to pleadings. The Government's motion was accordingly denied. A bill of particulars was thereupon filed by the Government's attorney, setting forth the information requested.

On February 11, 1946, the case came on for trial before the court without a jury. At the conclusion of the trial the court took the case under advise-

ment. On March 18, after consideration of the testimony and briefs and arguments of counsel, the court made findings of fact that the product consisted in part of a filthy substance by reason of the presence of filth, and that the renovation processes employed in renovating butter factories, and specifically by the claimant, would not purge the product of those filth elements such as maggot and other insect fats and fat extractives. The court also found as conclusions of law that the product was adulterated; that the law prohibited interstate shipment of food which consisted in part of any filthy substance; and that it should not be released for renovation into human food, but that the claimant might obtain release of the product for its conversion for some use other than human consumption.

In accordance with the above findings, judgment of condemnation was entered and the product was ordered released under bond for conversion into soap, glycerin, or other substance for use other than human consumption, under the supervision of the Federal Security Agency. Notice of appeal was filed by the claimant on April 16, 1946. However, the claimant failed to perfect its appeal, and accordingly an order dismissing the appeal was entered by the United States Circuit Court of Appeals for the Fifth Circuit on January 4, 1947.

13255. Adulteration of butter. U. S. v. 99 Cases * * * (and 4 other seizure actions). (F. D. C. Nos. 24147, 24154, 24160, 24161, 24205. Sample Nos. 714-K, 19007-K, 19008-K, 19029-K, 22651-K, 22652-K, 22664-K, 22665-K.)

LIBELS FILED: Between September 18 and November 13, 1947, Eastern District of Louisiana, Southern District of Florida, and Southern District of West Virginia.

ALLEGED SHIPMENT: Between September 10 and November 1, 1947, by the Sugar Creek Creamery Co., from Louisville, Ky., and Russellville, Ark.

PRODUCT: Butter. 248 boxes at New Orleans, La., 50 cases at Charleston and 43 cases at Huntington, W. Va., and 83 cases at Miami, Fla. Each box in the New Orleans lot contained 12 pounds, and each of the other containers held 32 pounds.

LABEL, IN PART: "Valley Farm Brand Creamery Butter [or "Cudahys Sunlight Creamery Butter"] * * * The Cudahy Packing Co., Distributors * * * Chicago, Ill.," "Clear Brook Creamery Butter [or "Clear Brook * * * Ol Fashund Roll"] Distributors Wilson & Co. General Offices Chicago, Ill.," "Sugar Creek Butter Distributed by Sugar Creek Creamery Company Danville, Illinois," or "Land O' Sunshine Butter * * * packed for the Winn & Lovett Grocery Company Jacksonville, Florida."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed animal substance. (Examination showed that the product contained mold.)

DISPOSITION: Between October 20 and December 10, 1947. The Sugar Creek Creamery Co., claimant, having consented to the entry of decrees, judgments of condemnation were entered and the product was ordered released under bond for conversion into butter oil or other disposition in compliance with the law, under the supervision of the Food and Drug Administration. A total of 93 cases were denatured and sold to a tankage firm for rendering, and the remainder was converted into butter oil.

13256. Adulteration of butter. U. S. v. 20 Cases, etc. (F. D. C. No. 24696. Sample No. 22456-K.)

LIBEL FILED: February 16, 1948, District of Alabama.

ALLEGED SHIPMENT: On or about February 4, 1948, by the Cudahy Packing Co., from Nashville, Tenn.

PRODUCT: Butter. 20 cases, each containing 32 1-pound prints, and 1 case, containing 12 1-pound prints, at Birmingham, Ala.

LABEL, IN PART: "Cudahy's Sunlight Creamery Butter."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed animal substance. (Examination showed the presence of mold.)

DISPOSITION: March 30, 1948. Default decree of condemnation. The product was ordered sold to be used in manufacturing grease, glycerin, or soap.

13257. Adulteration of butter. U. S. v. 14 Cases * * *. (F. D. C. No. 21068. Sample Nos. 1293-H, 54409-H.)

LIBEL FILED: August 26, 1946, Middle District of Georgia.

ALLEGED SHIPMENT: On or about August 7, 1946, by the Cudahy Packing Co., from Nashville, Tenn.

PRODUCT: 14 cases, each containing 32 pounds, of butter at Columbus, Ga.

LABEL, IN PART: "Cudahy's Sunlight Creamery Butter."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy or decomposed animal substance. (Examination showed the presence of mold.)

DISPOSITION: September 24, 1946. Default decree of condemnation. The product was ordered denatured and used for fat salvage purposes.

13258. Adulteration of butter. U. S. v. 585 Cases * * * (and 1 other seizure action). (F. D. C. Nos. 25166, 25365. Sample Nos. 30337-K, 30338-K, 30340-K.)

LIBELS FILED: June 28 and 29, 1948, Southern District of California.

ALLEGED SHIPMENT: On or about June 1 and 15, 1948, by the Blackfoot Creamery, from Blackfoot, Idaho.

PRODUCT: 678 30-pound cases of butter at Los Angeles, Calif.

LABEL, IN PART: "Fresh Jerseymaid Butter * * * Distributed by Jersey-maid Milk Products Co., Los Angeles, Calif."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

DISPOSITION: July 1 and 9, 1948. Paul Brog, proprietor of the Blackfoot Creamery, claimant, having consented to the entry of decrees, judgments of condemnation were entered and the product was ordered released under bond to be reworked under the supervision of the Food and Drug Administration.

13259. Adulteration of butter. U. S. v. 50 Cases * * *. (F. D. C. No. 25367. Sample No. 37137-K.)

LIBEL FILED: April 22, 1948, Territory of Hawaii.

ALLEGED SHIPMENT: On or about April 12, 1948, by Turner & Pease Co., Inc. from Seattle, Wash.

PRODUCT: 50 cases, each containing 30 1-pound prints, of butter at Honolulu, T. H.

LABEL, IN PART: "Meadow Brook Brand Sweet Cream Butter."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

DISPOSITION: May 3, 1948. Turner & Pease Co., Inc., having admitted the material allegations of the libel and consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond to be reworked under the supervision of the Food and Drug Administration.

13260. Adulteration of butter. U. S. v. 20 Cartons (1,280 pounds) * * *. (F. D. C. No. 24865. Sample No. 24573-K.)

LIBEL FILED: May 13, 1948, Eastern District of Pennsylvania.

ALLEGED SHIPMENT: On or about May 7, 1948, by the Farmers Cooperative Creamery, from Hector, Minn.

PRODUCT: 20 64-pound cartons of butter at Philadelphia, Pa.

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

DISPOSITION: May 17, 1948. Salers Dairy Stores, Inc., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond to be rechurned under the supervision of the Food and Drug Administration.

13261. Adulteration of butter. U. S. v. 7 Cartons (448 pounds) * * *. (F. D. C. No. 21926. Sample No. 51473-H.)

LIBEL FILED: November 7, 1946, Southern District of New York.

ALLEGED SHIPMENT: On or about October 25, 1946, by the Hannover Cooperative Creamery, from Hannover, N. Dak.

PRODUCT: 7 cartons, each containing approximately 64 pounds, of butter at New York, N. Y.

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

DISPOSITION: November 26, 1946. Zenith-Godley Co., Inc., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond, to be reworked under the supervision of the Food and Drug Administration.

13262. Adulteration of butter. U. S. v. 6 Cartons (384 pounds) * * *. (F. D. C. No. 25366. Sample No. 25703-K.)

LIBEL FILED: July 9, 1948, Southern District of New York.

ALLEGED SHIPMENT: On or about June 29, 1948, by the Lisbon Creamery, from Lisbon, N. Dak.

PRODUCT: 6 64-pound cartons of butter at New York, N. Y.

LABEL, IN PART: "Creamery Butter Distributed by Harry Rappaport, Inc. New York."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

DISPOSITION: July 29, 1948. Harry Rappaport, Inc., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be reworked under the supervision of the Food and Drug Administration.

13263. Adulteration of butter. U. S. v. 18 Cubes (1,152 pounds) * * *. (F. D. C. No. 24938. Sample Nos. 37811-K, 37814-K, 37815-K.)

LIBEL FILED: June 3, 1948, Western District of Washington.

ALLEGED SHIPMENT: On or about May 11, 1948, by the Iowa Pacific Butter & Egg Co., from Ottumwa, Iowa.

PRODUCT: 18 64-pound cubes of butter at Seattle, Wash.

LABEL, IN PART: "Creamery Butter - The Peter Fox Sons Co. Distributors * * * Chicago, Ill."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

DISPOSITION: July 7, 1948. The Washington Creamery Co., Seattle, Wash., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond to be rechurned under the supervision of the Food and Drug Administration.

CHEESE

13264. Action to enjoin and restrain the interstate shipment of adulterated cheese and cheese products. U. S. v. Hygrade Food Products Corporation and Donald Holdridge. Tried to the court. Injunction granted against corporation. Case against Donald Holdridge dismissed. Injunction modified upon appeal. (Inj. No. 80.)

COMPLAINT FILED: January 10, 1945, Northern District of Iowa, against the Hygrade Food Products Corp., and Donald Holdridge, manager of the branch plant at Manchester, Iowa.

NATURE OF CHARGE: The defendants had been receiving, preparing, and processing milk, and preparing and processing cheese and cheese products from such milk under grossly insanitary conditions and offering for interstate shipment and shipping in interstate commerce, cheese and cheese products adulterated as follows: Section 402 (a) (3), the products consisted in whole or in part of filthy substances by reason of the presence of rodent hairs, cat hairs, weevils, manure, mud, cow hairs, and other filthy substances unfit for food; and, Section 402 (a) (4), they had been prepared under insanitary conditions whereby they may have become contaminated with filth and may have been rendered injurious to health.

PRAYER OF COMPLAINT: That a preliminary injunction issue, restraining the defendants from commission of the acts complained of, and that, after due proceedings, the preliminary injunction be made permanent.

DISPOSITION: On February 9, 1945, a temporary injunction issued. On May 16, 1945, the temporary injunction was dissolved following stipulation by the defendant corporation that it would not ship in interstate commerce any milk products manufactured at the Manchester, Iowa, plant of the defendant during a period of 90 days from that date. On September 7, 1945, and subsequent thereto, various hearings were held, and on October 13, 1945, the court ordered the action dismissed as to Donald Holdridge on the ground that he had not been employed by the defendant company for some time and that while employed he had little if any executive authority. On the same date, the court entered judgment enjoining and restraining the defendant, as more fully appears in the opinion of the circuit court of appeals, *infra*. Notice of appeal was filed on behalf of the defendant corporation, and on April 19, 1947, the Circuit Court of Appeals for the Eighth Circuit handed down the following opinion:

GARDNER, *Circuit Judge*: "This is an appeal from a judgment entered in an action brought by the government against Hygrade Food Products Corporation under the provisions of the Federal Food, Drug and Cosmetic Act, which enjoined appellant from shipping in interstate commerce any of its products processed and manufactured at its Manchester, Iowa, plant. It will be convenient to refer to the parties as they appeared in the trial court.

"The defendant, since March, 1944, has owned and operated a plant at Manchester, Iowa, and has been engaged in the processing of cheese and cheese products from milk, and shipping these products in interstate commerce. It is charged in the complaint that these products have become contaminated with filth, rendering them injurious to health, and were adulterated in violation of Section 342 (a), (3) and (4), Title 21, U. S. C. A. After hearing the court found that defendant acquired its plant at Manchester, Iowa, in March, 1944, and has since been engaged in the processing of cheese and cheese products from milk, and has been shipping and introducing the products so processed into interstate commerce; that under the standards used by the Administrator of the Federal Food, Drug and Cosmetic Act, milk as to sediment content is classified into five grades known as Grades 1 to 5 inclusive; that Grade 1 is milk which is practically free from sediment; that Grade 2 is milk in which there is only a very small amount of sediment; that Grade 3 is milk in which there is a moderate amount of sediment; that Grade 4 is milk in which there is a large amount of sediment, and that Grade 5 is milk in which there is a very large amount of sediment; that milk which grades 1 and 2 is highly fit and satisfactory for processing into cheese; that milk which grades 3, while undesirable, does not have such a heavy sediment content as to result in filthy cheese, but that milk which is graded 4 and 5 is such filthy milk as to result in filthy cheese. The court then sets out the results of various inspections of the defendant's plant at which milk was graded. The court found that the problem of filthy milk in the area of defendant's Manchester, Iowa, plant has been aggravated by war time conditions in that the farmers have been short of help; that the defendant, commencing in July, 1945, for the first time began to cope with the filthy milk situation and has spent some time, effort and expense on the problem; that it made special provision for an employee to do something about the filthy milk situation by carrying on an educational campaign among the milk producers; that it made arrangements to have tests made of the milk as delivered at the plant and as a result the number of defendant's patrons have been reduced from around one hundred to fifty-eight; that the producers of filthy milk whose product is rejected by defendant frequently thereafter sell their filthy milk or cream to certain of defendant's competitors, but that defendant since it began operating the Manchester plant has been a large outlet for filthy milk and a hindrance to those purchasers of milk and cream who are trying to raise the standards of dairy cleanliness, and that certain of defendant's competitors now operate as a hindrance to the defendant when it is trying to raise the standards of dairy cleanliness; that since July 16, 1945, defendant has put considerable pressure on its patrons to quit delivering filthy milk, but when defendant relaxes this pressure a number of such patrons lapse back

into dairy uncleanness, and that when government pressure is released as to defendant it relaxes back into acceptance and processing of filthy milk. The court found, 'That the defendant has shown that it can and will do everything necessary to place its plant at Manchester, Iowa, in proper condition for the production of cheese, and no injunction is needed as to that phase.' The court also found that because of competitive conditions and the desire to secure milk the pressure on defendant to accept filthy milk was such that defendant could not resist it and that before defendant would be able to refrain from using filthy milk a very substantial change in the entire background in the matter of dairy cleanliness in the area served by its plant would have to occur. The court found that unless restrained by the court defendant would ship in interstate commerce dairy products processed at its Manchester, Iowa, plant contaminated by filthy substances contrary to the provisions of Title 21 U. S. C. A., Secs. 331 (a) and 342 (a) (3). The court entered judgment restraining defendant,

* * * from shipping or introducing into interstate commerce any cheese or other dairy products processed at its Manchester, Iowa, plant.

It is further ordered that after the expiration of two years, the defendant may move to modify this judgment so as to permit it to ship or introduce into interstate commerce cheese or other dairy products processed at its Manchester, Iowa, plant on the ground that there has been such a change in circumstances as to justify the expectation that such products will be processed without the use of filthy milk.

"In seeking reversal defendant challenges the court's findings and conclusions on substantially the following grounds: (1) the court should have refused an injunction because defendant is a responsible and reputable party and no present intention to violate the law appears; (2) the injunction should not be entered against the defendant as a penalty for past infractions; (3) injunctive relief provided for under Section 332, Title 21 U. S. C. A., presupposes a temporary injunction only with opportunity to the defendant to show a change of circumstances; (4) under Section 332, Title 21 U. S. C. A., the court was without authority to enjoin a processor or shipper from shipping its unadulterated products in interstate commerce.

"Section 331, Title 21 U. S. C. A. prohibits the introduction or delivery for introduction into interstate commerce of any food, drug, device, or cosmetic that is adulterated or misbranded, and Section 332 of the same title confers jurisdiction upon the District Courts of the United States 'for cause shown * * * to restrain violations of Section 331.'

"When defendant acquired the Manchester plant in March, 1944, it was in a dilapidated and unsanitary condition so far as the equipment and buildings were concerned and the manager was apparently careless and incompetent. Since that time defendant has discharged the old manager who had been in the employ of defendant's predecessor and employed a skilled and competent manager to take his place. It has made very substantial repairs, additions, improvements and changes in its physical structures so that the court found, 'That the defendant has shown that it can and will do everything necessary to place its plant at Manchester, Iowa, in proper condition for the production of cheese, and no injunction is needed as to that phase.' The basis for granting the injunction lies in the fact that defendant's supply of milk was up to the time of the hearing below the standard required although the defendant had with apparent good faith been endeavoring to educate the producers to furnish a better grade and in so doing had rejected unfit milk to such an extent that it had lost about forty percent of its patrons. The importance of these recitals goes simply to the question of defendant's good faith. As above noted, it has replaced its incompetent plant manager with a competent and skilled one and at a large expenditure has so improved the condition of its plant that no injunction is needed so far as the sanitary condition of the plant is concerned, nor indeed, so far as the present personnel of the management is concerned. The fact remains, however, that the milk supply which was being received at the plant even up to the time of hearing was not up to the required standard and this warranted the court in granting an injunction. The jurisdiction of the court, however, is limited to restraining violation of Section 331, and that is the introduction or delivery for introduction into interstate commerce of products that are adulterated or misbranded. An injunction is primarily a preventive remedy; it looks to the future rather than to the past. It is not for the purpose of punishing for wrongful acts already committed. *White v. Sparkill Realty Corp.*, 280

U. S. 500; Duplex Printing Press Co. v. Deering, 254 U. S. 443; Bowles, Adm. v. Carnegie-Illinois Steel Corp., 7 Cir., 149 F. 2d 545. The injunction here absolutely closes the door of the court on the defendant for an arbitrary period of two years regardless of what changes may be brought about during that time. Defendant cannot even ask the court to modify the injunction. This is true for a period of two years even though the grounds for which it was granted no longer exist by reason of a change in the controlling facts on which the injunction rested. The injunctive decree should be an ambulatory one. It is executory and continuing as to its purpose and should be subject to adaptation as events may change. This is not a case in which rights may be said fully to have accrued upon facts which are stable, permanent and impervious to change, but it involves the supervision of changing conduct or conditions. The denial of the right to apply to the court for a modification of the judgment within a period of two years is contrary to the genius of the jurisprudence of chancery. Under our system of government even the social outcast or the convicted criminal, though shunned by society, may have his day in court and seek for justice. We think too, the injunction is too broad in that it restrains the defendant from shipping any products processed at its Manchester plant regardless of what the grade of the processed products might be. As has been observed, the physical plant itself is in sanitary condition; it is competently managed. It has not apparently been able to secure raw material of the requisite grade. It is surely conceivable that with its present equipment and personnel, defendant could process products that are not, within the meaning of the statute, adulterated, and if so, it should be permitted to have such products transported in interstate commerce.

"The judgment appealed from should be modified so as to enjoin and restrain defendant, under the provisions of Section 332, Title 21 U. S. C. A., from introducing or delivering for introduction into interstate commerce, in violation of Section 331 and Section 342 (a) (3), Title 21 U. S. C. A., adulterated cheese or dairy products processed or manufactured, or to be processed or manufactured at its Manchester, Iowa, plant. The judgment should contain recital that jurisdiction of the cause is retained for the purpose of enforcing or modifying the judgment and for the purpose of granting such further relief as may hereafter appear appropriate. When so modified, the injunction can, of course, be enforced by contempt proceedings if necessary. The injunction should forbid only the acts which are prohibited by the statute. It should not prohibit the shipping or introducing of pure products into interstate commerce. As so modified the judgment will be affirmed."

On April 26, 1947, a mandate from the appellate court was filed in the United States district court, directing that the judgment of October 13, 1945, be modified, and in accordance therewith an order was entered on April 28, 1947, under which the defendant corporation was enjoined and restrained from introducing or delivering for introduction into interstate commerce adulterated cheese or dairy products processed or manufactured or to be processed or manufactured at its Manchester, Iowa, plant.

On June 11, 1947, a hearing was held on the application of the defendant corporation to dissolve the injunction, and on the basis of the evidence presented the court found that the conditions originally necessitating the issuance of the injunction had been so changed that an injunction was no longer necessary, and that the injunction had accomplished the purpose for which it was issued. Judgment was accordingly entered dissolving the injunction.

13265. Action to enjoin and restrain the interstate shipment of cheese and cheese curd. U. S. v. Delaware Valley Creamery Co., Inc. Default decree granting injunction. (Inj. No. 182.)

COMPLAINT FILED: November 6, 1947, Southern District of New York, against Delaware Valley Creamery Co., Inc., New York, N. Y.

NATURE OF CHARGE: That the defendant had been and was introducing and delivering for introduction in interstate commerce, at Cambridge Springs, Pa., cheese and cheese curd which were adulterated in the following respects: Section 402 (a) (3), they consisted in part of filthy substances, such as rodent hair, nondescript dirt, plant material, and insect fragments; and, Section 402 (a) (4), they had been and were being prepared and held under insanitary conditions at the Cambridge Springs, Pa., plant whereby they may have become contaminated with filth.

That the insanitary conditions in the plant arose out of the following conditions: The presence of rodents, rodent excreta, maggots, flies, and other insects in and around places in the plant where the cheese and cheese curd were being prepared and held and in and around the equipment used for preparing and holding the foods, thereby contaminating them and subjecting them to contamination by rodents and insects; the proximity of unprotected filthy toilet facilities to places in the plant where the foods were being prepared and held; and the existence of deposits of decomposed whey in proximity to places where cheese and cheese curd were being prepared and held.

PRAYER OF COMPLAINT: That the defendants be perpetually enjoined from commission of the acts complained of, and that a preliminary injunction be granted during the pendency of the action.

DISPOSITION: November 14, 1947. The defendant having failed to appear, a temporary injunction was granted by the court. On April 19, 1948, judgment was entered by default, permanently enjoining and restraining the defendant from introducing and delivering for introduction into interstate commerce adulterated cheese and cheese curd foods.

13266. Adulteration of cheese and milk. U. S. v. Beauty Girl Non-Stock Cooperative. Plea of nolo contendere. Fine, \$50. (F. D. C. No. 24091. Sample Nos. 48372-H to 48374-H, incl., 62852-H, 62858-H, 72737-H.)

INFORMATION FILED: February 12, 1948, District of Nebraska, against the Beauty Girl Non-Stock Cooperative, a corporation, Gering, Nebr.

ALLEGED SHIPMENT: On or about September 11, 12, 13, and 23, 1946, and July 9, 1947, from the State of Nebraska into the States of Wyoming and California.

LABEL, IN PART: (Cheese) "Beauty Girl Cheddar Cheese."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the products consisted in part of filthy substances by reason of the presence of nondescript dirt, sand, plant tissue, metal particles, rust particles, rodent hair, feather barbules, insect fragments, cow hair, manure, insects, and cloth fibers; and, Section 402 (a) (4), the products had been prepared under insanitary conditions whereby they may have become contaminated with filth.

DISPOSITION: June 14, 1948. A plea of nolo contendere having been entered on behalf of the defendant, the court imposed a fine of \$10 on each count of the information, a total fine of \$50.

13267. Adulteration and misbranding of Cheddar cheese. U. S. v. Kraft Foods Co. Plea of nolo contendere. Fine, \$100. (F. D. C. No. 24529. Sample No. 87222-H.)

INFORMATION FILED: May 4, 1948, District of Vermont, against the Kraft Foods Co., a corporation, trading at Troy, Vt.

ALLEGED SHIPMENT: On or about June 10, 1947, from the State of Vermont into the State of Massachusetts.

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), a product containing less than 50 percent of milk fat in its solids had been substituted for Cheddar cheese.

Misbranding, Section 403 (g) (1), the product failed to conform to the definition and standard of identity for Cheddar cheese, since it contained less than 50 percent of milk fat in its solids.

DISPOSITION: June 25, 1948. A plea of nolo contendere having been entered, a fine of \$100 was imposed.

13268. Adulteration of Cheddar cheese. U. S. v. 35 Cases * * *. (F. D. C. No. 23050. Sample No. 69947-H.)

LIBEL FILED: On or about June 18, 1947, Northern District of Illinois.

ALLEGED SHIPMENT: On or about April 30, 1947, by the Boswell Dairy Products Co., Inc., from Boswell, Ind.

PRODUCT: 35 cases of Cheddar cheese at Freeport, Ill.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of manure fragments, insect fragments, and hairs resembling rodent hairs; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: On May 21, 1948, a default decree of condemnation and destruction was entered. On June 4, 1948, the court on its own motion directed that the Kraft Cheese Co. be allowed to use the cheese as feed for animals, the feeding to be under the supervision of the United States marshal.

13269. Adulteration and misbranding of American cheese. U. S. v. 57 Cases
* * *. (F. D. C. No. 24354. Sample No. 12507-K.)

LIBEL FILED: February 18, 1948, Eastern District of Pennsylvania.

ALLEGED SHIPMENT: On or about January 13, 1948, by Sunette Dairy Co., Inc., from New York, N. Y.

PRODUCT: 57 cases, each containing 6 5-pound boxes, of American cheese at Philadelphia, Pa.

LABEL, IN PART: "Sunette's Pasteurized American."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), a product containing excessive moisture and deficient in milk fat had been substituted in whole or in part for cheese.

Misbranding, Section 403 (g) (1), the product failed to conform to the definition and standard of identity for American cheese, since it contained more than 39 percent of moisture and its solids contained less than 50 percent of milk fat.

DISPOSITION: On or about July 12, 1948, Sunette Dairy Co., Inc., New York, N. Y., claimant, having admitted the allegations in the libel, judgment of condemnation was entered ordering the product released under bond to be brought into compliance with the law by reworking or reprocessing under the supervision of the Food and Drug Administration.

MISCELLANEOUS DAIRY PRODUCTS*

13270. Action to enjoin and restrain interstate shipment of dairy products. U. S. v. Calder Brothers Co., Hyrum B. Calder, Howard Calder, J. Hamilton Calder, Delbert Shiner, and Thurman Peterson. Temporary injunction granted. Calder Brothers Co. fined \$350 for violation of temporary injunction; action dismissed as to individual defendants. Temporary injunction dissolved as to Calder Brothers Co. (Inj. No. 76.)

COMPLAINT FILED: January 30, 1945, District of Utah, against the Calder Brothers Co., a corporation, Vernal, Utah, and Hyrum B. Calder, Howard Calder, J. Hamilton Calder, Delbert Shiner, and Thurman Peterson.

NATURE OF CHARGE: That the defendants were engaged in the business of manufacturing, selling, and distributing various kinds of dairy products and had been operating and were at the time operating a plant at Vernal, Utah, which produced roller dried skim milk, and plants at Altonah and Roosevelt, Utah, which produced Cheddar cheese; that the defendants had on numerous occasions delivered and introduced into interstate commerce dairy products manufactured at the Vernal, Altonah, and Roosevelt plants which were adulterated within the meaning of the Federal Food, Drug, and Cosmetic Act; that the foods shipped in interstate commerce by the defendants were prepared, packed, and held under insanitary conditions, in that the buildings, walls, floor, shelves, vats, tanks, churns, and other equipment used in the preparation, packing, and holding of the food had been and were still infested with flies, beetles, mice, and other insects, and rodents, and with filth, dust, mold, dirt, excreta of rodents, and with dead flies, insects, and rodents; and that the milk used in preparation of the food was contaminated and consisted in part of a filthy substance, namely, manure and other ingredients.

The complaint alleged also that the defendants had repeatedly been informed that the food products manufactured by them were being prepared, packed, and held under insanitary conditions: and the defendants were warned that these practices must cease. It further alleged that the defendants, in spite of repeated notices and warnings, continued to prepare, pack, and hold food products under insanitary conditions, and continued to ship, and intended to continue shipping, the food products in interstate commerce unless restrained and enjoined from so doing.

*See also No. 13266.

PRAYER OF COMPLAINT: That the defendants show cause why an injunction should not issue enjoining and restraining them from commission of the acts complained of.

DISPOSITION: April 9, 1945. The matter was heard before the court, and a temporary injunction was entered enjoining the defendants from shipping in interstate commerce any food products which had been prepared, packed, and held under insanitary conditions whereby the food may have become contaminated with filth or in any way adulterated within the meaning of the law.

On March 1, 1946, a petition was filed, charging the defendants with contempt of court for violation of the injunction by reason of the shipment on or about August 25 and 27 and September 19 and 22, 1945, of adulterated dairy products which had been prepared, packed, and held under insanitary conditions, from the State of Utah into the States of California and Colorado. The petition also requested that the temporary order of injunction be made permanent. On March 22, 1946, the defendants having admitted the allegations in the petition, the Calder Brothers Co. was fined \$250.

On March 24, 1947, a petition was filed, charging the defendants with contempt of court for further violation of the injunction by reason of the shipment on or about January 20, 22, and 24, 1947, from the State of Utah into the State of Colorado, of adulterated dairy products which had been prepared, packed, and held under insanitary conditions. The petition also requested that the temporary injunction be made permanent. On October 7, 1947, the matter came on for hearing, and the complaint and petitions were dismissed as to the defendants, Hyrum B. Calder, Howard Calder, J. Hamilton Calder, Delbert Shiner, and Thurman Peterson. Thereupon, on behalf of the Calder Brothers Co., Howard Calder admitted violation of the temporary order of injunction, and the court sentenced the company to pay a fine of \$100. The temporary injunction was then ordered dissolved and set aside.

13271. Adulteration of frozen cream. U. S. v. Pine City Dairy Co. and LaVerne C. Hansen. Pleas of guilty. Fine, \$500 on count 1; sentence suspended on count 2 and defendants placed on probation for 3 years. (F. D. C. No. 22067. Sample Nos. 60833-H, 63787-H.)

INFORMATION FILED: June 7, 1947, District of Minnesota, against the Pine City Dairy Co., a partnership, Pine City, Minn., and LaVerne C. Hansen, a partner.

ALLEGED SHIPMENT: On or about June 20 and July 6, 1946, from the State of Minnesota into the States of New Jersey and Pennsylvania.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a filthy substance by reason of the presence of insects, insect fragments, rodent hair fragments, cat hair, cow hairs, unidentified hairs, manure fragments, and nondescript dirt; and, Section 402 (a) (4), it had been prepared and packed under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: October 30, 1947. Pleas of guilty having been entered, the defendants were fined \$500 on count 1. Imposition of sentence was suspended on count 2, and the defendants were placed on probation for a period of 3 years.

13272. Adulteration of cream. U. S. v. Zink Produce. Plea of guilty. Fine, \$25. (F. D. C. No. 23600. Sample No. 86004-H.)

INFORMATION FILED: October 28, 1947, District of Kansas, against Zink Produce, a partnership, Larned, Kans.

ALLEGED SHIPMENT: On or about February 20, 1947, from the State of Kansas into the State of Colorado.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a filthy substance by reason of the presence of rodent hairs.

DISPOSITION: November 24, 1947. A plea of guilty having been entered, the defendant was fined \$25.

13273. Adulteration of cream. U. S. v. 1 Can * * * (and 3 other seizure actions). (F. D. C. Nos. 25371, 25373, 25518, 25540. Sample Nos. 28369-K, 28381-K, 28534-K, 28553-K.)

LIBELS FILED: Between the approximate dates of June 11 and 28, 1948, District of Colorado.

ALLEGED SHIPMENT: On or about June 8, 17, and 23, 1948, by Campbell Produce, from Benkelman, Nebr.; by Klein Produce, from Goodland, Kans.; by Carl Schulte, from Happy, Tex.; and by G. J. Musselman, from Wheatland, Wyo.

PRODUCT: Cream. 4 10-gallon cans and 1 5-gallon can at Denver, Colo.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy, decomposed, and putrid animal substance by reason of the presence of nondescript dirt, fly eggs, feather barbules, beetle parts, larvae, a fly, rodent hairs, clumps of hair, a mouse, skin with hairs attached, maggots, mites, and unidentified hairs.

DISPOSITION: July 12 and 19 and August 3, 1948. Default decrees of condemnation and destruction.

13274. Adulteration and misbranding of oleomargarine. U. S. v. Kent Products, Inc. Plea of nolo contendere. Fine, \$200 and costs. (F. D. C. No. 24542. Sample No. 20903-K.)

INFORMATION FILED: April 19, 1948, Western District of Missouri, against Kent Products, Inc., a corporation, Kansas City, Mo.

ALLEGED SHIPMENT: On or about August 29, 1947, from the State of Missouri into the State of Kansas.

LABEL, IN PART: "Richmade Brand Vegetable Oleomargarine One Pound Net."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), a product containing less than 80 percent by weight of fat had been substituted for oleomargarine.

Misbranding, Section 403 (g) (1), the product failed to conform to the definition and standard of identity for oleomargarine, since it contained less than 80 percent of fat.

DISPOSITION: May 19, 1948. A plea of nolo contendere having been entered on behalf of the defendant, the court imposed a fine of \$100 on each of the 2 counts, plus costs.

FEEDS AND GRAINS

13275. Action to enjoin and restrain the interstate shipment of animal feed. U. S. v. Berend J. Burns (Burns Grain Co.) and Edward M. Senftle (Buffalo Feed Processing Co. and Buffalo Feed Processing Co., Inc.). Consent decree granting injunction. (Inj. No. 170.)

COMPLAINT FILED: May 1, 1947, Western District of New York, against Berend J. Burns, trading as the Burns Grain Co., and Edward M. Senftle, trading as the Buffalo Feed Processing Co. and Buffalo Feed Processing Co., Inc., Buffalo, N. Y.

NATURE OF CHARGE: Since July 1, 1945, Berend J. Burns, trading as the Burns Grain Co., had been engaged in the purchase, manipulation, sale, and interstate shipment of animal feed, and Edward M. Senftle, trading as the Buffalo Feed Processing Co. and Buffalo Feed Processing Co., Inc., had been operating a plant and factory for the milling, manufacturing, labeling, and interstate shipment of animal feed and financing such activities; that in the year 1945, the defendants shipped to Chestertown, Md., and Cincinnati, Ohio, quantities of feed labeled in part "Guaranteed Analyses Protein 20-22%, Fat 4½-5½%"; that the product so labeled contained less than 20 percent of protein and less than 4½ percent of fat; that in the year 1946, the defendants shipped various lots of feed to Hampstead and Chestertown, Md., Charles Town, W. Va., and Johnstown, Pa., under certificates of analyses indicating that the product contained a certain percentage of protein, but the analyses showed that the protein content was substantially less than represented in the respective certificates; that some of the aforesaid shipments were made in the name of Edward M. Senftle, and others were made in the name of the Burns Grain Co.; and that the feed so shipped was misbranded as follows: Section 403 (a), the statements on the tags and in the certificates of analyses regarding the products were false and misleading since the products contained less protein and in some instances less fat than so represented.

PRAYER OF COMPLAINT: That the defendants be enjoined from the interstate shipment of misbranded food products.

DISPOSITION: May 7, 1947. The defendants having consented to the entry of a decree, an order was entered permanently enjoining the defendants from

shipping in interstate commerce any food products manufactured or stored by them or under their control, which were in violation of the Federal Food, Drug, and Cosmetic Act.

13276. Misbranding of alfalfa meal. U. S. v. AAA Alfalfa Milling Co. Plea of guilty. Fine, \$200. (F. D. C. No. 23580. Sample No. 72333-H.)

INFORMATION FILED: January 28, 1948, against the AAA Alfalfa Milling Co., a partnership, Plainview, Tex.

ALLEGED SHIPMENT: On or about September 9, 1946, from the State of Texas into the State of Kansas.

LABEL, IN PART: (Tags attached to bags) "17% Dehydrated Alfalfa Meal."

NATURE OF CHARGE: Misbranding, Section 403 (a), the statements "17% Dehydrated Alfalfa Meal" and "Protein 17%" borne on the tags were false and misleading, since the product contained less than 17 percent of protein.

DISPOSITION: May 24, 1948. A plea of guilty having been entered on behalf of the defendant, the court imposed a fine of \$200.

13277. Misbranding of egg mash and growing mash. U. S. v. Lester E. Shamblen (Shamblen Milling Co.). Plea of nolo contendere. Fine, \$75 and costs. (F. D. C. No. 20182. Sample Nos. 32751-H to 32753-H, incl.)

INFORMATION FILED: September 30, 1946, District of Nebraska, against Lester E. Shamblen, trading as the Shamblen Milling Co., Omaha, Nebr.

ALLEGED SHIPMENT: On or about September 27 and October 6, 1945, from the State of Nebraska into the State of Maryland.

LABEL, IN PART: (Tags) "Pro-Min Egg Mash," or "Pro-Min Growing Mash."

NATURE OF CHARGE: Misbranding, Section 403 (a), the following statements on the labels were false and misleading, since the products each contained a smaller amount of protein than declared: (One lot of egg mash) "Guaranteed Analysis Protein, Not less than 20.0%," (other lot of egg mash) "18% Egg Mash Guaranteed Analysis: Minimum Crude Protein 18%," and (growing mash) "Guaranteed Analysis Protein 16.2%." Section 403 (i) (2), the products were fabricated from 2 or more ingredients and the labels failed to bear the common or usual name of each such ingredient, since one lot of the egg mash contained undeclared broken and shriveled grains of wheat, weed seeds, and weed seed coats, and the other lot of the egg mash and the growing mash contained undeclared cocoa shell meal and grain sorghum meal.

DISPOSITION: October 14, 1947. A plea of nolo contendere having been entered by the defendant, the court imposed a fine of \$25 on each of 3 counts, a total fine of \$75, plus costs.

FISH AND SHELLFISH

13278. Adulteration of Saliniase Bagong fish. U. S. v. Modern Food Products Co. and Wesley K. Oyama. Pleas of nolo contendere. Fines, company \$100 and individual defendant \$1. (F. D. C. No. 23624. Sample No. 75730-H.)

INFORMATION FILED: November 28, 1947, Northern District of California, against the Modern Food Products Co., a partnership, San Francisco, Calif., and Wesley K. Oyama, a partner.

ALLEGED SHIPMENT: On or about May 13, 1947, from the State of California into the Territory of Hawaii.

LABEL, IN PART: "Estancia Brand Saliniase Bagong Fish, Salt, Vinegar, Flour, Water and Color."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a decomposed substance by reason of the presence of decomposed fish.

DISPOSITION: June 21, 1948. A plea of nolo contendere having been entered, the company was fined \$100 and the individual defendant was fined \$1.

13279. Adulteration of frozen eiscoes. U. S. v. 1 Box * * *. (F. D. C. No. 22562. Sample No. 73113-H.)

LIBEL FILED: February 27, 1947, Northern District of Ohio.

ALLEGED SHIPMENT: On or about February 6, 1946, by J. Kozloff, from Detroit, Mich.

PRODUCT: 1 box of frozen ciscoes at Cleveland, Ohio.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of parasites.

DISPOSITION: July 15, 1947. Default decree of condemnation and destruction.

13280. Adulteration of frozen haddock. U. S. v. 560 Cartons * * *. (F. D. C. No. 21969. Sample No. 76024-H.)

LIBEL FILED: December 16, 1946, Southern District of New York.

ALLEGED SHIPMENT: On or about November 12, 1946, by Booth Fisheries, from Denver, Colo.

PRODUCT: 560 cartons, each containing 8 5-pound boxes, of frozen haddock at New York, N. Y.

LABEL, IN PART: "FZX Hadd Fillet * * * Packed By J. Walsh Fillet Co New York."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a putrid substance. (Examination showed the presence of putrid fish.)

DISPOSITION: January 9, 1947. Default decree of condemnation and destruction.

13281. Misbranding of canned salmon. U. S. v. Ralph S. Fleming. Plea of guilty. Fine, \$1,000 and costs. (F. D. C. No. 24047. Sample Nos. 59976-H to 59978-H, incl., 59981-H.)

INFORMATION FILED: January 15, 1948, Western District of Washington, against Ralph S. Fleming, Seattle, Wash.

ALLEGED SHIPMENT: On or about November 6, 1946, from the State of Washington into the State of Pennsylvania.

LABEL, IN PART: "West Haven Brand Troll Caught Fancy Salmon Net Wt. 7½ Oz. Packed For Dungeness Crab, Inc., Seattle, Washington," "Open Sea Brand Fancy Chinook Salmon Distributed by Seashore Packing Co., Hoquiam, Washington," "Southern Pride Brand Medium Red Salmon Net Contents 7¾ Oz. When Packed * * * Distributed by Elmer W. Smith, Inc. Seattle, Wash.," or "Fancy Pacific Salmon Troll Caught * * * Packed by Aberdeen Sea Foods Inc. Aberdeen, Wash."

NATURE OF CHARGE: Misbranding, Section 403 (a), (West Haven Brand) the label designation "Fancy Salmon" was false and misleading since the product was low quality salmon; (Fancy Pacific Salmon) the label designation "Fancy Pacific Salmon" was false and misleading since the product consisted of average and low quality salmon; (Open Sea Brand) the label designation "Fancy Chinook Salmon" and the statement "Distributed by Seashore Packing Co., Hoquiam, Washington" were false and misleading since the product consisted in part of Chinook salmon of low quality and in part of Coho salmon of low quality, and the product was not distributed by the Seashore Packing Co. of Hoquiam, Washington; and (Southern Pride Brand) the label designation "Medium Red Salmon" and the statement "Distributed by Elmer W. Smith Inc., Seattle, Wash." were false and misleading since the product consisted of salmon of other species, i. e., Chinook and Chum salmon, and it was not distributed by Elmer W. Smith, Inc., Seattle, Wash.

Further misbranding, Section 403 (d), (West Haven Brand and Southern Pride Medium Red Salmon), the containers were so filled as to be misleading (the cans were not filled to capacity); and, Section 403 (e) (2), (Southern Pride Brand) the article failed to bear a label containing an accurate statement of the quantity of the contents since the label bore the statement "Net Contents 7¾ Oz. When Packed," and the cans contained less than 7¾ ounces.

DISPOSITION: April 20, 1948. A plea of guilty having been entered, the defendant was fined \$1,000, plus costs.

13282. Action to enjoin and restrain the interstate shipment of fresh crab meat. U. S. v. Charles W. Howeth, Robert W. Howeth, and Charles W. Howeth & Bro., a partnership. Consent decree granting injunction. (Inj. No. 173.)

COMPLAINT FILED: September 11, 1947, District of Maryland, against Charles W. Howeth and Robert W. Howeth, copartners trading under the firm name of Charles W. Howeth & Bro., Crisfield, Md.

NATURE OF CHARGE: That the defendants had been for several years and at the time of the filing of the complaint were engaged in the business of picking and packing crab meat and shucking and packing fresh oysters; that during that time the defendants had been shipping in interstate commerce, fresh crab meat in violation of the law, as follows: Adulteration, Section 402 (a) (3), the product was contaminated with fecal *B. coli*; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

The complaint alleged further that the insanitary conditions in the factory arose out of the presence of rodents and rodent excreta in and around places in the factory where the crab meat was being prepared and in and around the equipment used in its preparation, thereby subjecting it to contamination by rodents and rodent excreta.

PRAYER OF COMPLAINT: That the defendants be perpetually enjoined from shipping into interstate commerce adulterated fresh crab meat, and that a preliminary injunction be granted during the pendency of the action.

DISPOSITION: November 3, 1947. The defendants having filed an answer praying for dismissal of the complaint but subsequently having consented to the entry of a decree, judgment was entered enjoining and restraining the defendants from introducing or delivering for introduction into interstate commerce any adulterated food, specifically fresh crab meat, which they had manufactured or prepared for shipment or would manufacture or prepare for shipment.

13283. Adulteration of crab meat. U. S. v. Earl H. Holton (Pamlico Packing Co.). Plea of guilty. Fine, \$200. (F. D. C. No. 24083. Sample Nos. 90485-H, 90486-H.)

INFORMATION FILED: February 5, 1948, Eastern District of North Carolina, against Earl H. Holton, trading as the Pamlico Packing Co., Vandemere, N. C.

ALLEGED SHIPMENT: On or about August 27, 1947, from the State of North Carolina into the State of Maryland and the District of Columbia.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a filthy substance, as evidenced by the presence of fecal *E. coli*; and, Section 402 (a) (4), it had been prepared and packed under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: April 5, 1948. A plea of guilty having been entered, the court imposed a fine of \$100 on each count, a total fine of \$200.

13284. Adulteration of crab meat. U. S. v. 1 Barrel * * * (F. D. C. No. 24841. Sample No. 2046-K.)

LIBEL FILED: June 21, 1948, District of Maryland.

ALLEGED SHIPMENT: On or about June 16, 1948, by Kelly Watson & Co., from Lowlands, N. C.

PRODUCT: 2 barrels containing 218 1-pound cans of crab meat at Baltimore, Md.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy animal substance; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth. (Examination showed that the product was contaminated with *E. coli* of fecal origin.)

DISPOSITION: July 23, 1948. Default decree of condemnation and destruction.

13285. Adulteration of crab meat. U. S. v. 1 Box, etc. (F. D. C. No. 24933. Sample No. 3670-K.)

LIBEL FILED: June 21, 1948, District of Maryland.

ALLEGED SHIPMENT: On or about June 16, 1948, by the Ray Potter Fish & Oyster Co., from Washington, N. C.

PRODUCT: Crab meat. 1 box containing 32 1-pound cans and 4 boxes containing 56 1-pound cans at Baltimore, Md.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy animal substance; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have be-

come contaminated with filth. (Examination showed that the product was contaminated with *E. coli* of fecal origin.)

DISPOSITION: June 23, 1948. Default decree of condemnation and destruction.

13286. Adulteration of crab meat. U. S. v. 4 Barrels * * *. (F. D. C. No. 25379. Sample No. 2059-K.)

LIBEL FILED: July 2, 1948, District of Maryland.

ALLEGED SHIPMENT: On or about June 30, 1948, by the Garland F. Fulcher Seafood Co., from Oriental, N. C.

PRODUCT: 4 barrels containing a total of 424 pounds of crab meat at Baltimore, Md.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance (examination showed that the product was contaminated with *E. coli* of fecal origin); and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: On or about August 5, 1948. Default decree of condemnation and destruction.

13287. Adulteration of crab meat. U. S. v. 67 Cases * * *. (F. D. C. No. 24589. Sample Nos. 36329-K, 36455-K.)

LIBEL FILED: April 12, 1948, District of Washington.

ALLEGED SHIPMENT: On or about November 1, 1947, by the Ocean Fresh Seafoods Co., from Cordova, Alaska.

PRODUCT: 67 cases, each containing 48 cans, and 40 cans of crab meat at Seattle, Wash.

LABEL, IN PART: "Alaska Fresh Dungeness Crab Meat."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance. (Examination showed the presence of decomposed crab meat.)

DISPOSITION: June 24, 1948. Default decree of condemnation and destruction.

13288. Adulteration of lobster tails. U. S. v. William Cohen (Willie Cohen). Plea of guilty. Fine, \$3,500. (F. D. C. No. 21439. Sample Nos. 63933-H to 63937-H, incl., 65035-H, 65036-H.)

INDICTMENT RETURNED: October 21, 1946, Northern District of New York, against William Cohen (Willie Cohen), Montreal, Canada.

ALLEGED SHIPMENT: On or about July 12, 18, 20, and 22, 1946, from Montreal, Canada, into the State of New Jersey, through Rouses Point, N. Y.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of putrid and decomposed substances.

DISPOSITION: December 17, 1947. A plea of guilty having been entered, the defendant was fined \$3,500.

13289. Adulteration of scallops. U. S. v. 682 Pounds * * *. (F. D. C. No. 24294. Sample Nos. 8716-K, 8719-K.)

LABEL FILED: January 6, 1948, Southern District of New York.

ALLEGED SHIPMENT: On or about November 5, 1947, from Georges Bank off Massachusetts, by Boat Catherine C.

PRODUCT: 682 pounds of scallops at New York, N. Y.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

DISPOSITION: April 29, 1948. Default decree of condemnation and destruction.

13290. Misbranding of canned shrimp. U. S. v. Morgan City Packing Co., a partnership, and Bertoul Cheramie. Pleas of nolo contendere. Partnership fined \$500. Imposition of sentence against individual suspended and he was placed on probation for 3 years. (F. D. C. No. 23211. Sample No. 24260-H.)

INFORMATION FILED: August 28, 1947, Eastern District of Louisiana, against the Morgan City Packing Co., Houma, La., and Bertoul Cheramie, a partner.

ALLEGED SHIPMENT: On or about August 23, 1946, from the State of Louisiana into the State of Alabama.

LABEL, IN PART: "Bridge Brand Wet Pack Shrimp, Net Weight Drained 7 Ozs. Distributed By St. Mary Sea Food Co., Morgan City, La."

NATURE OF CHARGE: Misbranding, Section 403 (e) (2), the product failed to bear a label containing an accurate statement of the quantity of the contents (the product was short of the declared drained weight); and, Section 403 (h) (2), it failed to conform to the standard of fill of container for canned shrimp in nontransparent containers, since the containers were not so filled that the cut-out weight of the shrimp taken from each can was not less than 64 percent of the water capacity of the containers, as required by the standard, and the label of the article failed to bear a statement that it fell below such standard.

DISPOSITION: March 3, 1948. Pleas of nolo contendere having been entered, the partnership was fined \$500. Imposition of sentence against the individual defendant was suspended and he was placed on probation for a period of 3 years, conditioned that he violate no State or Federal laws during that period.

13291. Misbranding of canned shrimp. U. S. v. 134 Cases * * *. (F. D. C. No. 24875. Sample No. 4939-K.)

LIBEL FILED: June 7, 1948, District of Massachusetts.

ALLEGED SHIPMENT: On or about April 9, 1948, by the Pelican Oyster & Fish Co., from New Orleans, La.

PRODUCT: 134 cases, each containing 48 cans, of shrimp at Brighton, Mass.

LABEL, IN PART: "Four Square Brand Wet Pack Shrimp Drained Weight 5 Ozs. Distributed By Hercules Frosted & Canned Foods, New Orleans, La."

NATURE OF CHARGE: Misbranding, Section 403 (e) (2), the product failed to bear a label containing an accurate statement of the quantity of the contents (the cans contained less than the 5 ounces declared); and, Section 403 (h) (2), the product fell below the standard of fill of container for canned wet pack shrimp in nontransparent containers, since the containers were not so filled that the cut-out weight of shrimp taken from each can was not less than 64 percent of the water capacity of the container, as required by the regulations, and its label failed to bear a statement that it fell below such standard.

DISPOSITION: July 16, 1948. The Pelican Oyster & Fish Co., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be relabeled under the supervision of the Food and Drug Administration. -

FRUITS AND VEGETABLES*

CANNED AND DRIED FRUIT

13292. Adulteration of canned blueberries. U. S. v. 160 Cases * * *. (F. D. C. Nos. 22593 to 22595, incl. Sample Nos. 43900-H, 44381-H, 44382-H.)

LIBEL FILED: March 4, 1947, Southern District of California.

ALLEGED SHIPMENT: On or about November 26, 1946, by the Sea-Land Frosted Foods Corp., from Boston, Mass.

PRODUCT: 160 cases, each containing 24 1-pound, 4-ounce cans, of blueberries at Los Angeles and Compton, Calif.

LABEL, IN PART: "Sea-Land Selected Blueberries."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of moldy blueberries.

DISPOSITION: May 27, 1947. Default decree of condemnation and destruction.

13293. Misbranding of canned peaches. U. S. v. 513 Cases * * *. (F. D. C. No. 24842. Sample No. 4929-K.)

LIBEL FILED: May 11, 1948, District of Massachusetts.

ALLEGED SHIPMENT: On or about February 27, 1948, by Libby, McNeill & Libby, from Sacramento, Calif.

*See also Nos. 13203-13205, 13207, 13208.

PRODUCT: 513 cases, each containing 24 1-pound, 13-ounce cans, of peaches at Somerville, Mass.

LABEL, IN PART: "Libby's Sliced Yellow Cling Peaches In Heavy Syrup."

NATURE OF CHARGE: Misbranding, Section 403 (g) (2), the label of the article failed to bear the name of the optional packing medium present. The label bore the statement "In Heavy Syrup," whereas the article was packed in sirup designated as light sirup in the definition and standard.

DISPOSITION: July 9, 1948. Libby, McNeill & Libby, claimant, having consented to the entry of the decree, judgment of condemnation was entered and the product was ordered released under bond to be relabeled under the supervision of the Food and Drug Administration.

13294. Adulteration of raisins. U. S. v. Neshan Chooljian (Del Rey Packing Co.).
Plea of nolo contendere. Fine, \$500. (F. D. C. No. 20981. Sample Nos. 5057-H, 5064-H, 19899-H.)

INFORMATION FILED: December 5, 1946, Southern District of California, against Neshan Chooljian, trading as the Del Rey Packing Co., Del Rey, Calif.

ALLEGED SHIPMENT: On or about January 18 and 23, 1946, from the State of California into the States of Pennsylvania and Iowa.

LABEL, IN PART: "Deluxe Brand Choice Thompson Seedless Raisins."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a decomposed substance by reason of the presence of moldy and decomposed raisins.

DISPOSITION: April 7, 1947. A plea of nolo contendere having been entered, the defendant was fined \$500.

13295. Adulteration of dried apricots. U. S. v. 200 Cases * * *. (F. D. C. No. 24915. Sample No. 33609-K.)

LIBEL FILED: June 28, 1948, Southern District of New York.

ALLEGED SHIPMENT: On or about May 25, 1948, by the Bonner Packing Co., Stockton, Calif.

PRODUCT: 200 30-pound cases of dried apricots at New York, N. Y.

LABEL, IN PART: "Falcon Brand Extra Choice San Joaquin Apricots."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of larvae and insect excreta.

DISPOSITION: July 21, 1948. Default decree of condemnation and destruction.

FROZEN FRUIT

13296. Adulteration of frozen strawberries. U. S. v. R. D. Bodle Co., a corporation, and Arthur B. Chappel, Claude W. Neely, and Adolph G. Wegener.
Pleas of guilty. Fines, \$2,000 against corporation, \$600 against Arthur B. Chappel, \$400 against Claude W. Neely, and \$200 against Adolph G. Wegener. (F. D. C. No. 23617. Sample Nos. 65825-H, 65828-H.)

INFORMATION FILED: January 27, 1948, Western District of Washington, against the R. D. Bodle Co., a corporation, and Arthur B. Chappel, president and manager, Claude W. Neely, vice-president and general superintendent, and Adolph G. Wegener, superintendent of the Seattle plant.

ALLEGED SHIPMENT: On or about October 21, 1946, from the State of Washington into the State of New Jersey.

LABEL, IN PART: "Bodle Quick Frozen Sliced Marshall Strawberries * * *
Packed by R. D. Bodle Co., Seattle, U. S. A."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a decomposed substance by reason of the presence of moldy and rotten strawberries.

DISPOSITION: April 28, 1948. Pleas of guilty having been entered on behalf of the corporation and the three individuals, the court imposed fines of \$2,000 against the corporation, \$600 against Arthur B. Chappel, \$400 against Claude W. Neely, and \$200 against Adolph G. Wegener.

13297. Adulteration of frozen strawberries. U. S. v. Frigid Food Products, Inc. Plea of nolo contendere. Fine, \$1,000. (F. D. C. No. 24506. Sample Nos. 15001-K, 15002-K.)

INFORMATION FILED: March 9, 1948, Western District of Tennessee, against Frigid Food Products, Inc., Greenfield, Tenn.

ALLEGED SHIPMENT: On or about May 28 and 29, 1947, from the State of Tennessee into the State of Illinois.

LABEL, IN PART: "Frigid Fruit Frozen Strictly Fresh Strawberries 30 Lbs. Net."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a decomposed substance by reason of the presence of decomposed strawberry material.

DISPOSITION: May 27, 1948. A plea of nolo contendere having been entered on behalf of the defendant, the court imposed a fine of \$500 on each of 2 counts.

13298. Adulteration of frozen red raspberries. U. S. v. 1,498 Cases * * *. (F. D. C. No. 23797. Sample No. 20802-K.)

LIBEL FILED: On or about October 13, 1947, Western District of Missouri.

ALLEGED SHIPMENT: On or about July 1, 1947, by Washington Packers, Inc., from Sumner, Wash.

PRODUCT: 1,498 cases, each containing 24 packages, of red raspberries at Kansas City, Mo.

LABEL, IN PART: "Dewkist Brand Frozen Fresh Red Raspberries in Sugar Syrup."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of larvae.

DISPOSITION: March 25, 1948. A decree of condemnation was entered and the product was ordered released to Washington Packers, Inc., claimant, for the purpose of bringing the product into compliance with the provisions of the Act, under the supervision of the Food and Drug Administration. The reconditioning operations resulted in the destruction of 336 cases of the product.

13299. Adulteration and misbranding of frozen red raspberries. U. S. v. 310 Cases * * *. (F. D. C. No. 20794. Sample No. 58345-H.)

LIBEL FILED: September 9, 1946, Southern District of New York.

ALLEGED SHIPMENT: On or about July 15, 1946, by the Midfield Packers, from Olympia, Wash.

PRODUCT: 310 cases, each containing 24 16-ounce cartons, of frozen red raspberries at New York, N. Y.

LABEL, IN PART: "Moon Winks Red Raspberries in Syrup Net Wt. 16 oz."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), water, or water and sugar, had been substituted in part for raspberries.

Misbranding, Section 403 (d), the container was so filled as to be misleading since the cartons appeared to contain more raspberries than was actually the case. (Examination showed that the cartons contained approximately 9 ounces of raspberries and 7 ounces of sugar solution, whereas the cartons would hold at least 12 ounces of raspberries and 4 ounces of sugar or sugar solution without overfilling or bulging the carton when frozen. Good commercial practice dictates the use of not less than 12 ounces of raspberries per 1-pound carton.)

DISPOSITION: On January 31, 1947, Musante, Berman & Steinberg Co., Inc., Bridgeport, Conn., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond, conditioned that it be manufactured into jams and preserves. On May 23, 1947, the decree was amended to provide for relabeling the product instead of disposing of it as provided in the decree of January 31, 1947.

13300. Adulteration of frozen red raspberries. U. S. v. 20 Barrels * * *. (F. D. C. No. 24485. Sample No. 32386-K.)

LIBEL FILED: March 16, 1948, Northern District of California.

ALLEGED SHIPMENT: On or about October 31, 1947, by the Farmers Cooperative Union, from Puyallup, Wash.

PRODUCT: 20 barrels, each containing 435 pounds, of frozen red raspberries at Oakland, Calif.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of flies, larvae, and other insects.

DISPOSITION: June 18, 1948. Default decree of condemnation and destruction.

13301. Misbranding of frozen elderberries. U. S. v. 527 Cans * * *. (F. D. C. No. 24692. Sample No. 12269-K.)

LIBEL FILED: On or about April 5, 1948, District of New Jersey.

ALLEGED SHIPMENT: On or about September 25, 1944, by Sky Brothers, from Altoona, Pa.

PRODUCT: 527 cans, each containing approximately 24 pounds, of elderberries at Avalon, N. J.

NATURE OF CHARGE: Misbranding, Section 403 (a), the statement "Whole Eggs" borne on the cans was false and misleading, since the product was decomposed elderberries; Sections 403 (e) (1) and (2), the product failed to bear a label containing the name and place of business of the manufacturer, packer, or distributor, and an accurate statement of the quantity of the contents; and, Section 403 (i) (1), the label failed to bear the common or usual name of the article.

DISPOSITION: May 21, 1948. Default decree of condemnation and destruction.

JELLY AND FRUIT BUTTER*

13302. Adulteration and misbranding of jelly. U. S. v. 5 Cases, etc. (and 1 other seizure action). (F. D. C. Nos. 23729, 23730. Sample Nos. 61087-H to 61089-H, incl., 61092-H to 61094-H, incl.)

LIBELS FILED: September 26, 1947, Western District of New York.

ALLEGED SHIPMENT: On or about August 14 and 21, 1947, by the Keller Food Products Co., from Philadelphia, Pa.

PRODUCT: 15 cases of apple-strawberry jelly, 15 cases of apple-cherry jelly, and 15 cases of apple-grape jelly, each case containing 24 12-ounce jars, at Rochester, N. Y.

LABEL, IN PART: "Keller's Pure Apple Strawberry [or "Cherry," or "Grape"] Jelly."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), products of less than 65 percent soluble-solids content, and (apple-cherry jelly and one lot of apple-strawberry jelly) containing an insignificant proportion of cherry juice and strawberry juice, had been substituted for apple-cherry, apple-strawberry, and apple-grape jellies.

Misbranding, Section 403 (g) (1), the products failed to conform to the definition and standard of identity for apple-cherry, apple-strawberry, and apple-grape jellies, since they had not been concentrated by heat to such a point that the soluble-solids content of the finished jelly was not less than 65 percent; and the apple-cherry jelly and one lot of the apple-strawberry jelly failed also to conform to the definition and standard of identity since they were fruit jellies in which two or more fruit juices were used to make up the 45 parts by weight of the fruit juice ingredient, and the weight of the cherry juice and strawberry juice, respectively, was less than one-fifth of the weight of the total fruit juice ingredient.

DISPOSITION: October 30, 1947. Default decrees of condemnation. The products were ordered delivered to charitable institutions.

13303. Adulteration and misbranding of jelly. U. S. v. 30 Cases, etc. (F. D. C. No. 24855. Sample Nos. 25205-K to 25208-K, incl.)

LIBEL FILED: May 24, 1948, Northern District of Iowa.

ALLEGED SHIPMENT: On or about February 11 and April 21, 1948, by Royal Palms Kitchens, from Chicago, Ill.

PRODUCT: 86 cases, each containing 24 12-ounce jars, of jellies at Sioux City, Iowa.

*See also No. 13344.

LABEL, IN PART: "Honeymoon Brand Pure Red Currant [or "Strawberry," "Black Raspberry," or "Mint"] Jelly."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), products deficient in fruit juice and containing less than 65 percent soluble solids had been substituted for the above-named jellies.

Misbranding, Section 403 (g) (1), the products purported to be and were represented as red currant jelly, strawberry jelly, black raspberry jelly, and fruit jelly, mint flavoring and artificial coloring added, foods for which definitions and standards of identity had been prescribed, and they failed to conform to such definitions and standards since they were made from mixtures composed of less than 45 percent by weight of the fruit juice ingredient, red currant, strawberry, black raspberry, and fruit (apple, crab apple, or pineapple), mint flavoring and artificial coloring added, to each 55 parts by weight of one of the saccharine ingredients, and the soluble-solids content of the finished product was less than 65 percent.

DISPOSITION: June 24, 1948. Default decree of condemnation. The products were ordered delivered to charitable institutions.

13304. Adulteration and misbranding of apple butter. U. S. v. 432 Cases * * * (and 1 other seizure action). (F. D. C. Nos. 22774, 23086, 23087. Sample Nos. 39529-H, 87708-H, 87709-H.)

LIBELS FILED: March 25 and June 21, 1947, Eastern District of Wisconsin and Northern District of New York.

ALLEGED SHIPMENT: On or about November 26, 1946, and January 11, 1947, by the Adams Apple Products Corp., from Bendersville, Pa.

PRODUCT: Apple butter. 432 cases, each containing 12 2-pound, 6-ounce jars, at Green Bay, Wis., and 83 cases, each containing 6 7-pound, 8-ounce jars, at Dannemora, N. Y.

LABEL, IN PART: "Adams Apple Apple Butter," or "Adams Maid Brand * * * Apple Butter."

NATURE OF CHARGE: Adulteration (portion), Section 402 (b) (2), a product of less than 43 percent soluble-solids content had been substituted for apple butter.

Misbranding, Section 403 (g) (1), the product fell below the definition and standard of identity for apple butter, since the product was not concentrated by heat to such a point that the soluble-solids content of the butter was not less than 43 percent.

DISPOSITION: June 19 and September 13, 1947. Default decrees of condemnation. The Green Bay lot was ordered delivered to charitable institutions, and the other lot was ordered destroyed.

VEGETABLES AND VEGETABLE PRODUCTS

13305. Adulteration and misbranding of canned asparagus. U. S. v. 196 Cases * * * (and 9 other seizure actions). (F. D. C. Nos. 21913, 22132, 22254, 22256 to 22262, incl. Sample Nos. 46256-H, 46952-H, 62997-H.)

LIBELS FILED: December 5, 1946, and January 7 and February 7, 1947, Eastern District of Michigan and Eastern and Southern Districts of New York.

ALLEGED SHIPMENT: On or about August 14 and 28 and October 29, 1946, by Parrott & Co., from Oakland and San Francisco, Calif.

PRODUCT: Asparagus. 196 cases, each containing 6 6-pound, 12-ounce cans, at Detroit, Mich., 485 cases, each containing 6 6-pound, 5-ounce cans, at New York, N. Y., and 732 cases, each containing 24 1-pound, 2-ounce cans, at Brooklyn, N. Y.

LABEL, IN PART: "Fairplay Brand [or "Exposition Brand"] Tips Removed Asparagus."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), tough, fibrous, and inedible parts of asparagus had been substituted for asparagus cuts—tips removed.

Misbranding, Section 403 (g) (1), the product failed to conform to the definition and standard of identity for asparagus cuts—tips removed, since the standard provides that asparagus cuts—tips removed are the edible, succulent portions of sprouts of the asparagus plant from which the tip had

been removed and cut in pieces, whereas the product consisted of tough, fibrous, and inedible parts of the asparagus plant.

DISPOSITION: January 8, February 5, and March 20, 1947. Default decrees of condemnation. The Detroit lot was ordered delivered to a Federal institution, for use as hog feed, and the remaining lots were ordered destroyed.

13306. Adulteration of canned beans. U. S. v. Stokely-Van Camp, Inc. Plea of guilty. Fine, \$500. (F. D. C. No. 23610. Sample Nos. 73680-H, 73682-H.)

INFORMATION FILED: December 12, 1947, District of Massachusetts, against Stokely-Van Camp, Inc., New Bedford, Mass.

ALLEGED SHIPMENT: On or about March 18, 1947, from the Commonwealth of Massachusetts into the State of Ohio.

LABEL, IN PART: "Van Camp's New England Style California Pea Beans With Pork * * * Distributed By Stokely-Van Camp, Inc. New Bedford, Mass."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product was unfit for food by reason of the presence of rancid pork.

DISPOSITION: May 4, 1948. A plea of guilty having been entered on behalf of the corporation, the court imposed a fine of \$500.

13307. Adulteration of fava beans. U. S. v. 76 Bags * * *. (F. D. C. No. 24940. Sample No. 9564-K.)

LIBEL FILED: July 6, 1948, Southern District of New York.

ALLEGED SHIPMENT: On or about May 22, 1948, from Sheboygan, Wis.

PRODUCT: 76 100-pound bags of fava beans at New York, N. Y.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product was adulterated while held for sale after shipment in interstate commerce, in that it consisted in whole or in part of a filthy substance by reason of the presence of insects.

DISPOSITION: July 29, 1948. Default decree of condemnation and destruction.

13308. Misbranding of green beans. U. S. v. 30 Cases * * *. (F. D. C. No. 23683. Sample No. 54435-H.)

LIBEL FILED: On or about September 15, 1947, Northern District of Georgia.

ALLEGED SHIPMENT: On or about October 14, 1946, by the Ozark Packing Co., from Ozark, Ark.

PRODUCT: 30 cases, each containing 24 cans, of cut green beans at Canton, Ga. Examination showed that some of the cans contained sweet potatoes.

LABEL, IN PART: "Ozark Brand Cut Green Beans Contents 1 Lb. 12 Oz."

NATURE OF CHARGE: Misbranding, Section 403 (a), the label designation "Cut Green Beans" was false and misleading as applied to sweet potatoes.

DISPOSITION: January 19, 1948. No claimant having appeared, a decree of condemnation and forfeiture was entered. The United States marshal was directed to bring the products into compliance with the law by separating the cans containing sweet potatoes and relabeling them properly.

13309. Adulteration of frozen broccoli. U. S. v. Washington Frosted Foods, Inc., William S. Cahill, and Ernest R. Walter. Pleas of guilty. Corporation fined \$250 and costs. Imposition of sentence was suspended as to the individual defendants and they were placed on probation for 6 months. (F. D. C. No. 23616. Sample No. 3980-H.)

INFORMATION FILED: April 5, 1948, Western District of Washington, against Washington Frosted Foods, Inc., Kent, Wash., William S. Cahill, president, and Ernest R. Walter, vice president.

ALLEGED SHIPMENT: On or about December 3, 1946, from the State of Washington into the State of New Jersey.

LABEL, IN PART: "Penguin Brand Frozen Fresh Green Broccoli."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a filthy substance by reason of the presence of insects and worms.

DISPOSITION: June 15, 1948. Pleas of guilty having been entered, the corporation was fined \$250 and costs. Imposition of sentence was suspended as to the individual defendants and they were placed on probation for 6 months.

13310. Adulteration of canned corn. U. S. v. 598 Cases * * *. (F. D. C. No. 24362. Sample No. 3820-K.)

LIBEL FILED: On or about February 26, 1948, Eastern District of Virginia. On May 24, 1948, the libel was amended to cover two additional shipments of the product which, together with the 598 cases against which the original libel was filed, made a total of approximately 1,000 cases.

ALLEGED SHIPMENT: On or about October 29 and November 1, 1947, and January 9, 1948, by A. W. Feeser & Co., Inc., from Taneytown, Md.

PRODUCT: 1,000 cases, each containing 24 cans, of yellow sweet corn at Richmond, Va.

LABEL, IN PART: "Powhatan Cream Style Brand Yellow Sweet Corn Contents 1 Lb. 4 Ozs."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insects and insect fragments.

DISPOSITION: June 30, 1948. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

13311. Adulteration of canned corn. U. S. v. 74 Cases * * *. (F. D. C. No. 24917. Sample No. 3857-K.)

LIBEL FILED: June 28, 1948, District of Maryland.

ALLEGED SHIPMENT: On or about May 18, 1948, by the Food Fair Super Markets, from Washington, D. C.

PRODUCT: 74 cases, each containing 24 1-pound, 4-ounce cans, of corn at Frederick, Md.

LABEL, IN PART: "Pride Of The Valley Brand Cream Style Golden Corn * * * Packed By Jenkins Brothers, Inc., Frederick, Md."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of corn borer worms and worm fragments.

DISPOSITION: August 2, 1948. Default decree of condemnation and destruction.

13312. Misbranding of canned corn. U. S. v. 114 Cases * * *. (F. D. C. No. 24497. Sample No. 20271-K.)

LIBEL FILED: March 25, 1948, District of Nebraska.

ALLEGED SHIPMENT: On or about October 23, 1946, by Stokely-Van Camp, Inc., from Hoopeston, Ill.

PRODUCT: 114 cases, each containing 24 cans, of white sweet corn at Omaha Nebr.

LABEL, IN PART: "Stokely's Finest Cream Style White Sweet Corn Net Weight 1 Lb. 4 Oz—567 grams."

NATURE OF CHARGE: Misbranding, Section 403 (g) (1), the product failed to conform to the definition and standard of identity for canned corn since it had not been so processed by heat as to prevent spoilage. (The product was in whole or in part decomposed.)

DISPOSITION: June 10, 1948. Default decree of condemnation and destruction.

13313. Action to enjoin and restrain the interstate shipment of canned field peas and canned soaked dried field peas. U. S. v. Georgia Canning Co., Inc. Consent decree granting injunction. (Inj. No. 183.)

COMPLAINT FILED: October 8, 1947, Middle District of Georgia, against Georgia Canning Co., Inc., Wayside, Ga.

NATURE OF CHARGE: That the defendant had been and was introducing and delivering for introduction into interstate commerce, canned field peas and canned soaked dried field peas which were adulterated and misbranded as follows:

Adulteration, Section 402 (a) (3), they consisted in part of larvae, insects, and insect parts; and, Section 402 (b) (2), soaked dried field peas had been substituted for young tender field peas or young tender field peas with snaps.

Misbranding, Section 403 (a), the label statements "Young Tender Field Peas" or "Young Tender Field Peas with Snaps" and "contents of this can are young tender peas and not to be confused with soaked dried peas" were false and misleading, since the peas were not young or tender but were soaked dried

peas; and, Section 403 (g) (1), the product failed to conform to the definition and standard of identity for canned field peas, since the definition and standard provides that the vegetable ingredient of canned field peas is obtained from the seed shelled from the pods of succulent field peas with or without snaps, whereas the vegetable ingredient of the product was soaked dried field peas.

PRAYER OF COMPLAINT: That the defendants be perpetually enjoined from commission of the acts complained of and that a preliminary injunction be granted during the pendency of the action.

DISPOSITION: October 20, 1947. The defendant having admitted the allegations in the complaint and having consented to the entry of a decree, the court issued an order perpetually enjoining the defendant from introducing or delivering for introduction into interstate commerce adulterated or misbranded canned field peas or canned soaked dried field peas.

13314. Adulteration of canned field peas with snaps. U. S. v. 497 Cases * * *. (F. D. C. No. 22725. Sample No. 54838-H.)

LIBEL FILED: March 31, 1947, Northern District of Florida.

ALLEGED SHIPMENT: On or about August 12, 1946, by the Kent Canning Co., from Gibson, Ga.

PRODUCT: 497 cases, each containing 24 1-pound, 3-ounce cans, of peas at Tallahassee, Fla.

LABEL, IN PART: "Kent's Pride Georgia Field Peas with Snaps."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of larvae.

DISPOSITION: May 9, 1947. Default decree of condemnation. The product was ordered delivered to a Federal institution, for use as hog feed.

13315. Misbranding of canned black-eyed peas. U. S. v. 64 Cases, etc. (F. D. C. Nos. 24352, 24408. Sample Nos. 3824-K, 22678-K.)

LIBELS FILED: On or about January 13 and April 8, 1948, Eastern District of Louisiana and Eastern District of Virginia.

ALLEGED SHIPMENT: On or about October 21 and 24, 1947, by Leverton & Co., from Houston and Alvin, Tex.

PRODUCT: 64 cases and 149 cases, each containing 6 6-pound, 4-ounce cans, of black-eyed peas at Baton Rouge, La., and Richmond, Va., respectively.

LABEL, IN PART: "Rio Grande Fresh Green Shelled Blackeyed Peas."

NATURE OF CHARGE: Misbranding, Section 403 (g) (1), the product failed to conform to the definition and standard of identity for canned black-eyed peas, in that it was food sealed in a container and was not so processed by heat as to prevent spoilage. (The product was in whole or in part decomposed.)

DISPOSITION: March 27 and June 30, 1948. Default decrees of condemnation and destruction.

Nos. 13316 to 13320 report actions involving canned peas that purported to be a food for which a standard of quality has been prescribed by law, but the quality was charged to fall below the standard because of higher alcohol-insoluble solids than the maximum permitted by the standard, and the labels failed to bear, in the manner and form that the regulations specify, a statement that the product was below the standard.

13316. Misbranding of canned peas. U. S. v. 774 Cases * * *. (F. D. C. No. 24668. Sample No. 27908-K.)

LIBEL FILED: June 7, 1948, Eastern District of Missouri.

ALLEGED SHIPMENT: On or about May 24, 1948, by Charles H. Johnston's Sons Co., from Greensburg, Ind.

PRODUCT: 774 cases, each containing 24 1-pound, 4-ounce cans, of peas at St. Louis, Mo.

LABEL, IN PART: "Newport Brand Early June Peas * * * Distributed by Newport Can Co., Indianapolis, Ind."

NATURE OF CHARGE: Misbranding, Section 403 (h) (1), the product was below standard.

DISPOSITION: July 16, 1948. The shipper having appeared as claimant and having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond to be brought into compliance with the law, under the supervision of the Food and Drug Administration.

13317. Misbranding of canned peas. U. S. v. 399 Cases * * *. (F. D. C. No. 17998. Sample No. 32943-H.)

LIBEL FILED: On or about October 25, 1945, District of Montana.

ALLEGED SHIPMENT: On or about August 24, 1945, by the Woods Cross Canning Co., from Clearfield, Utah.

PRODUCT: 399 cases, each containing 24 1-pound, 4-ounce cans, of peas at Great Falls, Mont.

LABEL, IN PART: "Clearfield Brand Sweet Peas."

NATURE OF CHARGE: Misbranding, Section 403 (h) (1), the product was below standard.

DISPOSITION: April 5, 1946. The Woods Cross Canning Co., claimant, having admitted the allegations of the libel, judgment was entered ordering that the product be released under bond to be relabeled, under the supervision of the Food and Drug Administration.

13318. Misbranding of canned peas. U. S. v. 239 Cases * * *. (F. D. C. No. 24949. Sample No. 27913-K.)

LIBEL FILED: June 9, 1948, Eastern District of Missouri.

ALLEGED SHIPMENT: On or about October 1, 1947, by the Lake Odessa Canning Co., from Lake Odessa, Mich.

PRODUCT: 239 cases, each containing 24 1-pound, 4-ounce cans, of peas at St. Louis, Mo.

LABEL, IN PART: "Odessa Brand Early June Peas."

NATURE OF CHARGE: Misbranding, Section 403 (h) (1), the product was below standard.

DISPOSITION: July 1, 1948. The N. Comensky Grocer Co., St. Louis, Mo., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond, to be relabeled as substandard under the supervision of the Food and Drug Administration.

13319. Misbranding of canned peas. U. S. v. 150 Cases * * *. (F. D. C. No. 24973. Sample No. 27914-K.)

LIBEL FILED: June 25, 1948, Eastern District of Missouri.

ALLEGED SHIPMENT: On or about October 28, 1946, by the Mammoth Spring Canning Co., from Sussex, Wis.

PRODUCT: 150 cases, each containing 24 1-pound, 4-ounce cans, of peas at St. Louis, Mo.

LABEL, IN PART: "Eden Early Size 4 Peas."

NATURE OF CHARGE: Misbranding, Section 403 (h) (1), the product was below standard.

DISPOSITION: July 16, 1948. Bert Grossman, trading as the Mitchell Grossman Wholesale Grocer Co., St. Louis, Mo., claimant, having consented to the entry of a decree, judgment of condemnation was entered. The product was ordered released under bond to be relabeled, under the supervision of the Food and Drug Administration.

13320. Misbranding of canned peas. U. S. v. 31 Cases * * *. (F. D. C. No. 24905. Sample No. 13230-K.)

LIBEL FILED: June 22, 1948, Eastern District of Pennsylvania.

ALLEGED SHIPMENT: On or about May 21, 1948, by D. E. Foote & Co., Inc., from Baltimore, Md.

PRODUCT: 31 cases, each containing 48 10½-ounce cans, of peas at Philadelphia, Pa.

LABEL, IN PART: "Foote's Best Early June Peas."

NATURE OF CHARGE: Misbranding, Section 403 (h) (1), the product was below standard.

DISPOSITION: July 14, 1948. Default decree of condemnation. The product was ordered delivered to charitable institutions.

13321. Adulteration of pickles. U. S. v. 27 Barrels * * *. (F. D. C. No. 24839. Sample No. 9914-K.)

LIBEL FILED: May 10, 1948, Eastern District of New York.

ALLEGED SHIPMENT: On or about April 22, 1948, by the New England Pickle Co., from Ellington, Conn.

PRODUCT: 27 55-gallon barrels of pickles at Brooklyn, N. Y.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of decomposed pickles, and was otherwise unfit for food by reason of the presence of soft and slimy pickles.

DISPOSITION: June 3, 1948. Default decree of condemnation and destruction.

13322. Adulteration of pickles. U. S. v. 48 Cases, etc. (F. D. C. No. 24576. Sample Nos. 37037-K, 37038-K.)

LIBEL FILED: On or about March 29, 1948, District of Montana.

ALLEGED SHIPMENT: On or about June 5, 1946, by the Green Bay Food Co., from Green Bay, Wis.

PRODUCT: Pickles. 48 cases, each containing 24 8-ounce jars, and 20 cases, each containing 24 12-ounce jars, at Great Falls, Mont.

LABEL, IN PART: "Nation's Garden Brand Pickles."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of worms and aphids.

DISPOSITION: June 10, 1948. Default decree of condemnation and destruction, with the exception of one case which was ordered released and shipped to the manufacturer, the Green Bay Feed Co., at the manufacturer's expense.

13323. Adulteration of pickles. U. S. v. 24 Cases * * *. (F. D. C. No. 22727. Sample No. 54755-H.)

LIBEL FILED: April 17, 1947, Southern District of Georgia.

ALLEGED SHIPMENT: On or about January 21, 1947, by C. C. Lang & Son, Inc., from Baltimore, Md.

PRODUCT: 24 cases, each containing 4 1-gallon jars of pickles at Augusta, Ga.

LABEL, IN PART: "Lang's * * * Pickles."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insect fragments and rodent hair fragments; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: May 29, 1947. Default decree of condemnation and destruction.

13324. Adulteration and misbranding of canned pimientos. U. S. v. 60 Cases * * *. (F. D. C. No. 24887. Sample No. 3338-K.)

LIBEL FILED: June 14, 1948, District of Maryland.

ALLEGED SHIPMENT: On or about April 28, 1948, by National Cold Storage Co., Inc., from Jersey City, N. J.

PRODUCT: 60 cases, each containing 24 cans, of pimientos at Baltimore, Md.

LABEL, IN PART: "Net Weight 1 Lb 12 oz. Mercedes Brand Broken Pieces Pimientos Packed By Langford & Taylor, Meansville, Georgia."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of rotten pimientos.

Misbranding, Section 403 (e) (2), the product failed to bear a label containing an accurate statement of the quantity of the contents. (The cans contained less than the declared weight.)

DISPOSITION: July 19, 1948. Default decree of condemnation and destruction.

13325. Adulteration of potatoes. U. S. v. 227 Bags * * *. (F. D. C. No. 24954. Sample No. 7988-K.)

LIBEL FILED: June 17, 1948, Western District of Pennsylvania.

ALLEGED SHIPMENT: On or about May 4, 1948, by the Hastings Potato Growers Assn., from Dunnell, Fla.

PRODUCT: 227 50-pound bags of potatoes at Johnstown, Pa.

LABEL, IN PART: "Moon Lake Brand Florida Potatoes Packed by Vandergriff-Williams Farms Growers and Shippers, Pahokee, Florida."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product was unfit for food by reason of its being unpalatable.

DISPOSITION: July 9, 1948. Default decree of condemnation and destruction.

13326. Adulteration of potato chips. U. S. v. Bernard J. Sterzing (Sterzing Food Co.). Plea of guilty. Fine, \$100 and costs. (F. D. C. No. 24541. Sample Nos. 24144-K, 24146-K to 24148-K, incl.)

INFORMATION FILED: April 21, 1948, Southern District of Iowa, against Bernard J. Sterzing, trading as the Sterzing Food Co., Burlington, Iowa.

ALLEGED SHIPMENT: Between the approximate dates of January 3 and 16, 1948, from the State of Iowa into the State of Illinois.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a filthy substance by reason of the presence of rodent hair fragments; and, Section 402 (a) (4), it had been prepared and packed under unsanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: June 1, 1948. A plea of guilty having been entered on behalf of the defendant, the court imposed a fine of \$25 on each of 4 counts of the information, a total fine of \$100 and costs.

TOMATOES AND TOMATO PRODUCTS*

13327. Adulteration and misbranding of canned tomatoes. U. S. v. 1,000 Cases * * *. (F. D. C. No. 21987. Sample No. 72910-H.)

LIBEL FILED: January 8, 1947, Western District of Kentucky.

ALLEGED SHIPMENT: On or about September 10, 1946, by the Smith Canning Co., from Fayetteville, Ark. The product when shipped was unlabeled and no written labeling agreement existed between the shipper and the consignee. However, labels were furnished with the shipment to be applied to the product which read "Smith's Beauty Hand Packed Tomatoes Contents 1 lb. 3 oz."

PRODUCT: 1,000 cases, each containing 24 unlabeled cans, of tomatoes at Louisville, Kentucky.

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), a product containing added water had been substituted in whole or in part for canned tomatoes.

Misbranding, Section 403 (e) (1), the article failed to bear a label containing the name and place of business of the manufacturer, packer, or distributor; Section 403 (e) (2), it failed to bear a label containing an accurate statement of the quantity of the contents; and, Section 403 (g) (1), it failed to conform to the definition and standard of identity for canned tomatoes, since it contained added water, which is not permitted as an ingredient of canned tomatoes. Further misbranding, Section 403 (h) (1), the article fell below the standard of quality prescribed for canned tomatoes, since it failed to meet the requirements for strength and redness of color, since it contained excessive tomato peel, and since the drained weight of the contents of the container of the article was less than 50 percent of the weight of water required to fill the container; and the label of the article failed to bear a statement, as prescribed by the regulations, that it fell below the standard of quality.

DISPOSITION: April 27, 1948. Default decree of condemnation. The product was ordered delivered to a charitable institution.

13328. Misbranding of canned tomatoes. U. S. v. 2,470 Cases * * *. (F. D. C. No. 22220. Sample No. 40896-H.)

LIBEL FILED: January 27, 1947, Eastern District of Illinois.

*See also Nos. 13209-13213.

ALLEGED SHIPMENT: On or about October 14, 1946, by the Washburn Canning Co., from Washburn, Mo.

PRODUCT: 2,470 cases, each containing 24 1-pound, 3-ounce cans, of tomatoes at East St. Louis, Ill.

LABEL, IN PART: "Ozark Chief [or "Queen's Taste," or "Satisfaction"] Brand."

NATURE OF CHARGE: Misbranding, Section 403 (h) (1), the product fell below the standard of quality for canned tomatoes, because of low drained weight as determined by the sieve test set forth in the standard and because of tomato peel in excess of the maximum permitted by the standard, and it failed to bear the substandard legend.

DISPOSITION: February 24, 1947. William Ash, trading as the Washburn Canning Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond, to be relabeled under the supervision of the Food and Drug Administration.

13329. Misbranding of canned tomatoes. U. S. v. 1,158 Cases * * *. (F. D. C. No. 23696. Sample No. 86896-H.)

LIBEL FILED: September 16, 1947, District of Minnesota.

ALLEGED SHIPMENT: On or about July 29, 1947, by the Athens Canning Co., from Athens, Tex.

PRODUCT: 1,158 cases, each containing 24 cans, of tomatoes at St. Paul, Minn.

LABEL, IN PART: "Homefolk Brand Hand Packed Tomatoes Contents 1 Lb. 3 Oz."

NATURE OF CHARGE: Misbranding, Section 403 (h) (1), the product fell below the standard of quality prescribed for canned tomatoes, because the strength and redness of color did not conform to the regulations and there was tomato peel in excess of the amount permitted by the regulations, and the label failed to bear, as specified by the regulations, a statement that the article fell below the standard of quality.

DISPOSITION: June 11, 1948. The Athens Canning Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond for relabeling, under the supervision of the Federal Security Agency.

13330. Misbranding of canned tomatoes. U. S. v. 800 Cases * * * (and 1 other seizure action). (F. D. C. Nos. 22161, 23893. Sample Nos. 49641-H, 20327-K.)

LIBELS FILED: January 10 and November 5, 1947, Eastern District of Texas and Northern District of Oklahoma.

ALLEGED SHIPMENT: On or about September 9, 1946, and August 12, 14, and 23, 1947, by the Smith Canning Co., from Fayetteville, Ark.

PRODUCT: 800 cases at Pittsburg, Tex., and 1,754 cases at Tulsa, Okla., each case containing 24 1-pound, 3-ounce cans, of tomatoes.

LABEL, IN PART: "Big Smith Brand Hand Packed Tomatoes."

NATURE OF CHARGE: Misbranding, Section 403 (h) (1), the quality of the article fell below the standard of quality for canned tomatoes, since the drained weight of the contents of the container of the article was less than 50 percent of the weight of water required to fill the container, and the label of the article failed to bear, as prescribed by the standard, a statement that the article fell below such standard.

DISPOSITION: May 5, 1947, and April 26, 1948. The Smith Canning Co., claimant, having consented to the entry of decrees, judgments of condemnation were entered and the product was ordered released under bond for relabeling under the supervision of the Federal Security Agency.

13331. Misbranding of canned tomatoes. U. S. v. 1,998 Cases * * *. (F. D. C. No. 21955. Sample No. 49647-H.)

LIBEL FILED: December 9, 1946, Western District of Louisiana.

ALLEGED SHIPMENT: On or about September 26, 1946, by the Wharton Canning Co., from Fayetteville, Ark.

PRODUCT: 1,998 cases, each containing 24 1-pound, 3-ounce cans, of tomatoes at Shreveport, La.

LABEL, IN PART: "Wharton's Pride Tomatoes."

NATURE OF CHARGE: Misbranding, Section 403 (h) (1), the product fell below the standard of quality for canned tomatoes, since the drained weight was less than 50 percent of the weight of water required to fill the container and since it failed to meet the requirements of the standard for color, and its label failed to bear the substandard legend; and, Section 403 (h) (2), the product failed to meet the standard of fill of container for canned tomatoes, since the fill of container of the article was a fill of less than 90 percent of the total capacity of the container, and its label failed to bear a statement that it fell below the standard.

DISPOSITION: January 6, 1947. The Wharton Canning Co. having appeared as claimant and the allegations of the libel having been found to be true, judgment of condemnation was entered and the product was ordered released under bond, to be brought into compliance with the law, under the supervision of the Food and Drug Administration.

13332. Misbranding of canned tomatoes. U. S. v. 55 Cases * * *. (F. D. C. No. 22901. Sample No. 49496-H.)

LIBEL FILED: April 9, 1947, Western District of Louisiana.

ALLEGED SHIPMENT: On or about October 22, 1946, by the Dublin Grocery Co., from Jacksonville, Tex.

PRODUCT: 55 cases, each containing 24 1-pound, 3-ounce cans, of tomatoes at Lake Charles, La.

LABEL, IN PART: "Grapeland Tomatoes * * * Packed by Mallory Canning Company, Grapeland, Texas."

NATURE OF CHARGE: Misbranding, Section 403 (h) (1), the article fell below the standard of quality prescribed for canned tomatoes, because of low drained weight as determined by the sieve test provided by the standard and because it failed to meet the test for strength and redness of color provided in the said standard, and the label failed to bear a statement that the article was substandard in quality.

DISPOSITION: December 9, 1947. Default decree of condemnation. The product was ordered released to a charitable institution.

13333. Adulteration of tomato catsup. U. S. v. 2,096 Cases, etc. (F. D. C. No. 18047. Sample Nos. 29924-H, 29925-H.)

LIBEL FILED: October 25, 1945, Northern District of California.

ALLEGED SHIPMENT: On or about April 25, 1945, by Mid-West Food Packers, Inc., from Fowlerton, Ind.

PRODUCT: 4,192 cases, each containing 24 14-ounce bottles, of tomato catsup at Alameda, Calif.

LABEL, IN PART: "Meguiar's Super Quality Tomato Catsup."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of decomposed tomato material.

DISPOSITION: November 21, 1945. Default decree of condemnation and destruction.

13334. Adulteration of tomato paste. U. S. v. Samuel L. Rosenthal and Max Rosenthal. Pleas of guilty. Fines, \$400 against each defendant. (F. D. C. No. 21541. Sample Nos. 25010-H, 25011-H, 45449-H, 46765-H, 46766-H, 46768-H.)

INFORMATION FILED: March 14, 1947, Northern District of California, against Samuel L. Rosenthal and Max Rosenthal, manager and superintendent, respectively, of the Aron Canning Co., Stockton, Calif.

ALLEGED SHIPMENT: Between the approximate dates of October 9, 1945, and January 10, 1946, from the State of California into the States of Louisiana, Washington, and New York.

LABEL, IN PART: "Corina Brand Fancy California Tomato Paste * * * Packed by Aron Canning Co., Stockton, Calif."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a decomposed substance by reason of the presence of decomposed tomato material.

DISPOSITION: April 1, 1948. Pleas of guilty having been entered on behalf of both defendants, the court imposed a fine of \$100 on each of the 4 counts against each defendant, a total fine of \$400 for each.

13335. Adulteration of tomato puree. U. S. v. 98 Cases * * *. (F. D. C. Nos. 18752, 18753. Sample Nos. 46619-H, 46620-H.)

LIBELS FILED: January 18, 1946, Territory of Hawaii.

ALLEGED SHIPMENT: On or about November 26, 1945, by Alexander & Baldwin, Ltd., from San Francisco, Calif.

PRODUCT: 245 cases, each containing 6 cans, of tomato puree at Honolulu, T. H.

LABEL, IN PART: "E and A Brand Fancy Tomato Puree Net Weight 6 Lbs. 9 Oz. Grown and Packed by Ensher, Alexander & Barsoom Inc., Sacramento, Calif."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of decomposed tomato material.

DISPOSITION: September 6, 1946. The sole interveners having consented to the entry of decrees, judgments of condemnation were entered and the product was ordered destroyed.

13336. Adulteration and misbranding of tomato puree. U. S. v. 24 Cases * * *. (F. D. C. No. 22663. Sample No. 90945-H.)

LIBEL FILED: March 4, 1947, Eastern District of North Carolina.

ALLEGED SHIPMENT: On or about December 10, 1946, by the North American Canning Co., from Dania, Fla.

PRODUCT: 24 cases, each containing 6 6-pound, 6-ounce cans, of tomato puree at Williamston, N. C.

LABEL, IN PART: "Sun Charm Brand Tomato Puree."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of decomposed tomato material.

Misbranding, Section 403 (g) (1), the product fell below the definition and standard of identity for tomato puree, since it contained less than 8.37 percent of salt-free tomato solids.

DISPOSITION: June 4, 1947. Default decree of condemnation and destruction.

NUTS AND NUT PRODUCTS

13337. Adulteration of brazil nuts. U. S. v. 14 Bags * * * (and 1 other seizure action). (F. D. C. Nos. 21909, 23903. Sample Nos. 64640-H, 12219-K.)

LIBELS FILED: December 4, 1946, and November 6, 1947, District of Connecticut and Eastern District of Pennsylvania.

ALLEGED SHIPMENT: On or about November 12, 1946, and October 21, 1947, by the Biddle Purchasing Co., from New York, N. Y.

PRODUCT: Brazil nuts. 14 100-pound bags at New Haven, Conn., and 35 100-pound bags at Philadelphia, Pa.

LABEL, IN PART: "Pan American Brand Fancy Large Washed [or "Amazon Brand Large Medium Washed"] Brazil Nuts * * * Packed by Red Line Commercial Co., New York, N. Y."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insect-infested nuts, and of a decomposed substance by reason of the presence of rancid, moldy, and decomposed nuts.

DISPOSITION: January 6 and December 11, 1947. The Biddle Purchasing Co., claimant, having consented to the entry of decrees, judgments of condemnation were entered and the product was ordered released under bond for cleaning and reprocessing, conditioned that the unfit portion remaining be destroyed, under the supervision of the Federal Security Agency.

13338. Adulteration of chestnuts. U. S. v. 14 Kegs * * *. (F. D. C. No. 25074. Sample No. 9104-K.)

LABEL FILED: July 13, 1948, Southern District of New York.

ALLEGED SHIPMENT: From Italy, arriving at New York on or about August 4, 1947.

PRODUCT: 14 100-pound kegs of chestnuts at New York, N. Y.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product was adulterated while held for sale after shipment in interstate commerce, in that it consisted in whole or in part of a filthy substance by reason of the presence of insects.

DISPOSITION: July 29, 1948. Default decree of condemnation and destruction.

13339. Adulteration of coconut. U. S. v. 2 Bags * * *. (F. D. C. No. 24939. Sample No. 3137-K.)

LABEL FILED: July 2, 1948, District of Maryland.

ALLEGED SHIPMENT: On or about December 1, 1947, from San Francisco, Calif.

PRODUCT: 2 80-pound bags of coconut at Baltimore, Md., in possession of Louis Proietti, trading as the Seven Valley Flour Co. The product was stored under insanitary conditions. The bags were rodent-gnawed, and the coconut was contaminated with rodent excreta and urine.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product was adulterated while held for sale after shipment in interstate commerce, in that it consisted in whole or in part of a filthy substance by reason of the presence of rodent excreta and urine; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: August 4, 1948. Default decree of condemnation and destruction.

13340. Adulteration of granulated peanuts. U. S. v. 2½ Barrels * * * (and 1 other seizure action). (F. D. C. Nos. 24635, 24640. Sample Nos. 25097-K, 25324-K.)

LIBELS FILED: May 18 and 19, 1948, Western District of Wisconsin and District of South Dakota.

ALLEGED SHIPMENT: On or about March 3 and April 21, 1948, by Martin Food Products, Inc., from Chicago, Ill.

PRODUCT: Granulated peanuts. 7 200-pound barrels at Madison, Wis., and 2½ barrels, each full barrel containing 220 pounds, at Sioux Falls, S. Dak.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insects, insect fragments, and insect excreta.

DISPOSITION: June 16 and 22, 1948. Default decrees of condemnation. The Wisconsin lot was ordered denatured and disposed of for purposes other than human consumption, or destroyed. The South Dakota lot was ordered released to Miss Regina Grant, Sioux Falls, S. Dak., to be used as feed for birds and not for human consumption.

13341. Adulteration of peanut butter. U. S. v. 452 Jars * * * (and 1 other seizure action). (F. D. C. Nos. 24618, 24623. Sample Nos. 24281-K, 41535-K.)

LIBELS FILED: April 30 and May 3, 1948, Northern District of Indiana and Western District of Wisconsin.

ALLEGED SHIPMENT: On or about March 16 and April 1, 1948, by Martin Food Products, Inc., from Chicago, Ill.

PRODUCT: Peanut butter. 452 8-ounce jars at Gary, Ind., 11 cases, each containing 12 24-ounce jars, and 1 case, containing 10 2-pound jars, at Park Falls, Wis.

LABEL, IN PART: "Pal Peanut Butter."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insects and insect fragments; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: June 3 and 22, 1948. Default decrees of condemnation and destruction.

13342. Misbranding of peanut butter. U. S. v. 61 Cases, etc. (F. D. C. No. 24844. Sample Nos. 27170-K, 27171-K.)

LIBEL FILED: June 26, 1948, Eastern District of Illinois.

ALLEGED SHIPMENT: On or about March 30, 1948, by the J. H. Erbrich Products Co., from Indianapolis, Ind.

PRODUCT: Peanut butter. 61 cases, each purporting to contain 12 24-ounce jars, and 63 cases, each purporting to contain 24 12-ounce jars, at Danville, Ill.

LABEL, IN PART: "Nibbler Brand Peanut Butter Mfd. by Goody-Goody Products Co., Indianapolis, Ind. Net Weight 1 Lb. 8 Oz. [or "Net Weight 12 Oz."]."

NATURE OF CHARGE: Misbranding, Section 403 (e) (2), the product failed to bear a label containing an accurate statement of the quantity of the contents. (The jars contained less than the declared amount.)

DISPOSITION: June 26, 1948. The J. H. Erbrich Products Co. and the Paxton Wholesale Grocer Co., claimants, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond, the jars to be refilled in accordance with the label weight declaration, under the supervision of the Food and Drug Administration.

13343. Misbranding of peanut butter. U. S. v. 4 Cases * * *. (F. D. C. No. 24615. Sample No. 27161-K.)

LIBEL FILED: April 30, 1948, Southern District of Illinois.

ALLEGED SHIPMENT: On or about March 10, 1948, by the J. H. Erbrich Products Co., from Indianapolis, Ind.

PRODUCT: 4 cases, each containing 24 jars, of peanut butter at Decatur, Ill.

LABEL, IN PART: "Ward Rose Peanut Butter Net Wt. 1 Lb."

NATURE OF CHARGE: Misbranding, Section 403 (e) (2), the product failed to bear a label containing an accurate statement of the quantity of the contents. (The jars contained less than the declared 1 pound.)

DISPOSITION: June 3, 1948. Default decree of condemnation. The product was ordered delivered to institutions.

13344. Misbranding of pecan spread and apple cider jelly. U. S. v. 8 Cases, etc. (F. D. C. Nos. 20405, 20417. Sample Nos. 59287-H to 59289-H, incl.)

LIBELS FILED: August 21, 1946, District of Oregon.

ALLEGED SHIPMENT: On or about March 12, May 5, and June 7, 1946, by the Great Western Mushroom Co., from Denver, Colo.

PRODUCT: 10 cases, each containing 24 jars, of pecan spread and 8 cases, each containing 24 jars, of apple cider jelly at Portland, Oreg. Examination showed that the products were short-weight.

LABEL, IN PART: "Savery Savory Pecans in Honey with Brandy Net Weight 10 Ounces," "Savery Savory Spun Pecan Spread Contains: Pecans Honey and Brandy * * * Net Wt. 5 Ozs.," and "Savery Savory Apple Cider Jelly Honey with Pecans and Lemon * * * Net Wt. 5 Ozs."

NATURE OF CHARGE: Misbranding, Section 403 (e) (2), the articles failed to bear labels containing accurate statements of the quantity of the contents.

Further misbranding (jelly), Section 403 (a), the designation "Apple Cider Jelly" was misleading, since it implied that the article was apple jelly, whereas it was not apple jelly.

DISPOSITION: November 14, 1946. Default decrees of condemnation and destruction.

OILS AND FATS

13345. Misbranding of Ramol (mineral oil). U. S. v. Warren J. Frank and Douglass B. Pew (Frank Pew Oil Co.). Pleas of guilty. Fine of \$300 and costs against defendant Frank and fine of \$600 and costs against defendant Pew. (F. D. C. No. 23214. Sample No. 50106-H.)

INFORMATION FILED: August 5, 1947, Northern District of Ohio, against Warren J. Frank and Douglass B. Pew, trading as copartners under the name of the Frank Pew Oil Co., Cleveland, Ohio.

ALLEGED SHIPMENT: Between the approximate dates of May 1 and July 2, 1946, from the State of Ohio into the State of Texas.

NATURE OF CHARGE: Misbranding, Section 403 (b), the article consisted of mineral oil, a nonnutritive substance, and it was offered for sale under the name of another food, salad oil, a nutritive substance; and, Section 403 (i), the label of the article failed to bear the common or usual name of the food, mineral oil.

The information charged also misbranding of another shipment of Ramol, which was represented to be a drug, under the provisions of the law applicable to drugs, as reported in notices of judgment on drugs and devices, No. 2398.

DISPOSITION: December 19, 1947. Pleas of guilty having been entered, the court imposed a fine of \$300 and costs against defendant Frank and a fine of \$600 and costs against defendant Pew.

13346. Adulteration and misbranding of oil. U. S. v. 6 Cans * * * (and 3 other seizure actions). (F. D. C. Nos. 21944, 21946, 22137, 22141. Sample Nos. 65637-H, 65638-H, 65647-H, 65650-H.)

LIBELS FILED: December 5 and 30, 1946, and January 2, 1947, Eastern District of Pennsylvania and District of Delaware.

ALLEGED SHIPMENT: On or about October 30 and November 4, 1946, by Emperor Dairy Products Co., Inc., from New York, N. Y.

PRODUCT: Oil. 6 cans, 10 cans, and 50 cases each containing 6 cans, at Philadelphia, Pa., and 24 cans at Wilmington, Del.

LABEL, IN PART: (Cans) "Contents One Gallon Emperor Brand Extra Quality Oil 80% Peanut Oil and 20% Pure Olive Oil."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), an artificially flavored oil of the nature of soybean oil, containing little or no olive oil or peanut oil, had been substituted for a mixture of peanut and olive oil, which the article was represented to be; and, Section 402 (b) (4), artificial flavoring had been added to the article and mixed and packed therewith so as to make it appear to be, or to contain substantial amounts of, olive oil, which is better and of greater value than soybean oil.

Misbranding, Section 403 (a), the label statement "80% Peanut Oil and 20% Pure Olive Oil" was false and misleading; Section 403 (k), the article contained artificial flavoring and failed to bear labeling stating that fact; and, Section 403 (e) (2), a portion of the article failed to bear a label containing an accurate statement of the quantity of contents (this portion of the article was short-volume).

DISPOSITION: December 19, 1946, and January 22 and February 27, 1947. The Emperor Dairy Products Co., Inc., having appeared as claimant for 6 cans and 50 cases of the product and having consented to the entry of decrees, and the cases involving these two lots having been consolidated, judgment of condemnation was entered and the product was ordered released under bond for rerefining, purifying, repacking, and relabeling under the supervision of the Federal Security Agency. No claimant having appeared for the other lots, they were condemned and ordered destroyed.

13347. Adulteration and misbranding of french dressing. U. S. v. 18 Cases * * * (and 1 other seizure action). (F. D. C. Nos. 22838, 22839. Sample Nos. 76824-H, 76859-H.)

LIBELS FILED: April 15 and 16, 1947, District of South Dakota and District of North Dakota.

ALLEGED SHIPMENT: On or about July 29, August 8, and November 13, 1946, from Minneapolis, Minn., by the Lano Food Products Co. and the Wholesale Supply Co.

PRODUCT: French dressing. 18 cases at Aberdeen, S. Dak., and 49 cases at Grand Forks, N. Dak. Each case contained 24 jars.

LABEL, IN PART: "LaMonte French Dressing Manufactured By Lano Food Products Co. Minneapolis * * * 16 Fl. Ounces [or "8 Fl. Oz."]."

NATURE OF CHARGE: Adulteration, Section 402 (b) (1), a valuable constituent, oil, had been in whole or in part omitted from the article. (The article contained an insignificant amount of oil.)

Misbranding, Section 403 (a), the label designation "French Dressing" was false and misleading; and, Section 403 (e) (2), the lot labeled "16 Fl. Ounces"

failed to bear a label containing an accurate statement of the quantity of the contents. (The jars contained less than 16 fluid ounces.)

DISPOSITION: On May 29, 1947, the Lano Food Products Co. having appeared as claimant for the North Dakota lot and having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond for relabeling under the supervision of the Food and Drug Administration. Subsequently, upon a showing that there was no market for the product, the court ordered it delivered to some charitable institution or destroyed. On June 9, 1947, no claimant having appeared for the South Dakota lot, it was condemned and ordered delivered to a local hospital.

13348. Adulteration of mayonnaise. U. S. v. 22 Cases * * * (and 1 other seizure action). (F. D. C. Nos. 21893, 21894. Sample Nos. 42693-H, 43154-H, 43155-H.)

LIBELS FILED: November 27, 1946, Southern District of West Virginia.

ALLEGED SHIPMENT: On or about October 21 and 28, 1946, by the Dixie Brokerage Co., from Columbia, S. C.

PRODUCT: Mayonnaise. 15 cases, each containing 24 1-pint jars, and 7 cases, each containing 12 1-quart jars, at St. Albans, W. Va., and 68 cases, each containing 12 1-quart jars, and 6 cases, each containing 12 1-pint jars, at Beckley, W. Va.

LABEL, IN PART: "Caldwell's Mayonnaise Contains Mineral Oil, Starch, Eggs, Vinegar, Salt and Other Spices Made By Caldwell's Cafeteria, Columbia, S. C. Sales Agent Dixie Brokerage Co., Columbia, S. C."

NATURE OF CHARGE: Adulteration, Section 402 (a) (1), the product contained approximately 55 percent of added mineral oil, a deleterious substance, which may have rendered it injurious to health; Section 402 (b) (1), a valuable constituent, edible vegetable oil, had been omitted; Section 402 (b) (2), a product containing mineral oil had been substituted for mayonnaise; and, Section 402 (b) (4), mineral oil had been added to the product and mixed with it so as to reduce its quality and strength.

DISPOSITION: January 15, 1947. Default decrees of condemnation and destruction.

13349. Adulteration of mayonnaise. U. S. v. 33 Cases * * * (and 2 other seizure actions). (F. D. C. Nos. 21804 to 21806, incl. Sample Nos. 43156-H, 43157-H, 43159-H.)

LIBELS FILED: December 2, 1946, Southern District of West Virginia.

ALLEGED SHIPMENT: On or about October 19 and 26, 1946, by Caldwell's Cafeteria, from Columbia, S. C.

PRODUCT: Mayonnaise. 63 cases, each containing 24 1-pint jars, and 8 cases, each containing 12 1-quart jars, at Eskdale, W. Va., and 19 cases, each containing 24 1-pint jars, at Charleston, W. Va.

LABEL, IN PART: "Caldwell's Mayonnaise Contains Mineral Oil, Starch, Eggs, Vinegar, Salt and Other Spices Made By Caldwell's Cafeteria, Columbia, S. C."

NATURE OF CHARGE: Adulteration, Section 402 (a) (1), the product contained approximately 51 percent of added mineral oil, a deleterious substance, which may have rendered it injurious to health; Section 402 (b) (1), a valuable constituent, edible vegetable oil, had been omitted; Section 402 (b) (2), a product containing mineral oil had been substituted for mayonnaise, which contains edible vegetable oil and does not contain mineral oil; and, Section 402 (b) (4), mineral oil had been added to the product and mixed and packed therewith so as to reduce its quality and strength.

DISPOSITION: January 15, 1947. Default decrees of condemnation and destruction.

13350. Adulteration of salad dressing. U. S. v. 51 Cases, etc. (and 2 other seizure actions). (F. D. C. Nos. 21122, 21124, 21784. Sample Nos. 64388-H to 64391-H, incl., 69310-H.)

LIBELS FILED: Between October 1, 1946, and September 9, 1947, Northern District of New York and Northern District of Illinois.

ALLEGED SHIPMENT: August 12 and 16 and October 22, 1946, by the Suzanne Processed Oil Co., from Boston, Mass.

PRODUCT: Salad dressing. 5,940 16-ounce bottles, 1,596 1-quart bottles, 912 8-ounce bottles, and 15 1/2-gallon jars at Utica, N. Y., and 6,816 16-ounce jars at Chicago, Ill.

LABEL, IN PART: "Non-Nutritive Dressings for Salads for weight reducing diets Suzanne Merry-Maise Ingredients: U. S. P. Mineral Oil, Eggs, Salt, Sugar, Spices."

NATURE OF CHARGE: Adulteration, Section 402 (a) (1), the product contained added mineral oil, a deleterious substance, which may have rendered it injurious to health.

DISPOSITION: April 3, September 20, October 9 and 24, and November 10, 1947. Default decrees of condemnation and destruction.

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⁴ (13254) Seizure contested. Contains opinions of the court.

⁵ (13264) Permanent injunction issued. Contains opinion of the court.

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³ (13214, 13232, 13251-13253, 13265, 13275, 13282, 13313) Permanent injunction issued.

⁴ (13254) Seizure contested. Contains opinions of the court.

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jelly	13302	Morgan City Packing Co.:	
Kelly Watson & Co.:		canned shrimp	13290
crab meat	13284	Murphy Candy Co.:	
Kent Canning Co.:		candy	13246
canned field peas with snaps	13314	Mussellman, G. J.:	
Kent Products, Inc.:		cream	13273
oleomargarine	13274	Nagel, E. M.:	
Klein Produce:		potato bread and whole wheat	
cream	13273	bread	13221
Knapp, I. R.:		National Cold Storage Co., Inc.:	
bakery products	13216	canned pimientos	13324
Kozloff, J.:		Neely, C. W.:	
frozen ciscoes	13279	frozen strawberries	13296
Kraft Foods Co.:		Nelson, C. J.:	
Cheddar cheese	13267	bakery products	13215
Krause, Chas. A., Milling Co.:		New England Pickle Co.:	
brewers corn grits	13238	pickles	13321
Krispy Kone Co.:		Newport Can Co.:	
candied popcorn	13248	canned peas	13316
La Fond Chocolatier:		Norma Chocolate Works:	
chocolate candy	13243	chocolate	13242
Lake Odessa Canning Co.:		North American Canning Co.:	
canned peas	13318	tomato puree	13336
Lakeside Biscuit Co. <i>See</i> United		Ocean Fresh Seafoods Co.:	
Biscuit Co. of America.		crab meat	13287
Lang, C. C., & Son, Inc.:		Orange Smile Sirup Co., Inc.:	
pickles	13323	orange sirup	13205
Langendorf United Bakeries,		Oroweat Baking Co.:	
Inc.:		potato bread and whole wheat	
enriched bread	13220	bread	13221
Langford & Taylor:		Oyama, W. K.:	
canned pimientos	13324	Saliniase Bagong fish	13278
Lano Food Products Co.:		Ozark Packing Co.:	
french dressing	13347	green beans	13308
Leverton & Co.:		Pacific Fruit & Produce Co.:	
canned black-eyed peas	13315	tomato juice	13209
Libby, McNeill & Libby:		Pamlico Packing Co. <i>See</i> Holton,	
canned peaches	13293	E. H.	
Lisbon Creamery:		Parrott & Co.:	
butter	13262	canned asparagus	13305
Louisa Supply Co., Inc.:		Pelican Oyster & Fish Co.:	
corn meal	13228	canned shrimp	13291
McCarter, C. H., & Co.:		Peterson, Thurman:	
imitation wild cherry sirup and		dairy products	⁶ 13270
imitation strawberry sirup	13206	Pew, D. B.:	
		Ramol (mineral oil)	13345

⁵ (13264) Permanent injunction issued. Contains opinion of the court.⁶ (13270) Temporary injunction issued.

	N. J. No.		N. J. No.
Pine City Dairy Co.:		South Mountain Dairies, Inc.:	
frozen cream-----	13271	butter-----	³ 13253
Potter, Ray, Fish & Oyster Co.:		Stanley, E. C.:	
crab meat-----	13285	cake-----	13222
Proietti, Louis:		Sterzing, B. J.:	
coconut-----	13339	potato chips-----	13326
Purcell, A. C.:		Sterzing Food Co. <i>See</i> Sterzing,	
doughnut flour, prepared mixes,		B. J.	
liquid extracts, and other		Stewart-Walker Corp.:	
food products-----	³ 13232	coconut macaroons-----	13225
Randolph Creamery. <i>See</i> Burley,		Stokely-Van Camp, Inc.:	
E. H., and Sherwood, H. H.		canned beans-----	13306
Rappaport, Harry, Inc.:		corn-----	13312
butter-----	13262	Sugar Creek Creamery Co.:	
Red Line Commercial Co.:		butter-----	13255
brazil nuts-----	13337	Sunette Dairy Co., Inc.:	
Ritton, W. G.:		American cheese-----	13269
popcorn-----	13239	Suzanne Processed Oil Co.:	
Robbins Wine Co.:		salad dressing-----	13350
wine-----	13208	Tennant and Hoyt:	
Rockwood & Co.:		flour-----	13234
chocolate candy-----	13241	Tilwald Products Co.:	
Rosenthal, S. L., and Max:		marshmallow whip-----	13250
tomato paste-----	13334	Turner & Pease Co., Inc.:	
Royal Palms Kitchens:		butter-----	13259
jelly-----	13303	United Biscuit Co. of America:	
Rustic Glen Foods:		cookies and crackers-----	13226
popcorn-----	13240	Vandergriff-Williams Farms	
St. Mary Sea Food Co.:		Growers & Shippers:	
canned shrimp-----	13290	potatoes-----	13325
Schulte, Carl:		Wagner, H. M.:	
cream-----	13273	doughnut flour, prepared mixes,	
Sea-Land Frosted Foods Corp.:		liquid extracts, and other	
canned blueberries-----	13292	food products-----	³ 13232
Seashore Packing Co.:		Wagner, H. M., & Co., Inc.:	
canned salmon-----	13281	doughnut flour, prepared mixes,	
Sebastiani Canning Co.:		liquid extracts, and other	
tomato juice-----	13213	food products-----	³ 13232
Senftle, E. M.:		Wagner Products Co.:	
animal feed-----	³ 13275	doughnut flour, prepared mixes,	
Seven Valley Flour Co. <i>See</i>		liquid extracts, and other	
Proietti, Louis.		food products-----	³ 13232
Shamblen, L. E.:		Walsh, J., Fillet Co.:	
egg mash and growing mash--	13277	frozen haddock-----	13280
Shamblen Milling Co. <i>See</i> Sham-		Walter, E. R.:	
blen, L. E.		frozen broccoli-----	13309
Shawnee Milling Co.:		Wapato Packing Co.:	
corn meal-----	13229	tomato juice-----	13209
Sherwood, H. H.:		Washburn Canning Co.:	
butter-----	³ 13252	canned tomatoes-----	13328
Shiner, Delbert:		Washington Frosted Foods, Inc.:	
dairy products-----	⁶ 13270	frozen broccoli-----	13309
Sky Brothers:		Washington Packers, Inc.:	
frozen elderberries-----	13301	frozen red raspberries-----	13298
Smith Canning Co.:		Wegener, A. G.:	
canned tomatoes-----	13327, 13330	frozen strawberries-----	13296
Smith, Elmer W., Inc.;		Weintraub, L. J.:	
canned salmon-----	13281	bread-----	13218
Smyrna Lowell Confectionery		Weintraub Baking Co., Inc.:	
Co.:		bread-----	13218
Turkish paste-----	13247		

³ (13214, 13232, 13251-13253, 13265, 13275, 13282, 13313) Permanent injunction issued.⁶ (13270) Temporary injunction issued.

	N. J. No.		N. J. No.
Wharton Canning Co.:		Woodgate, A. E., Jr.:	
canned tomatoes-----	13331	cookies and crackers-----	13226
White, H. S.:		Woods Cross Canning Co.:	
flour and corn meal-----	13233	canned peas-----	13317
Whitson Candy Co.:		Wooten, C. R.:	
candy-----	13244, 13245	corn meal-----	13228
Wholesale Supply Co.:		Zimmerman, E. R.:	
french dressing-----	13347	corn meal and hominy grits---	13231
Wilson & Co.:		Zimmerman & Co. <i>See</i> Zimmer-	
butter-----	13255	man, E. R.	
Winn & Lovett Grocery Co.:		Zink Produce:	
butter-----	13255	cream-----	13272

ERRATUM

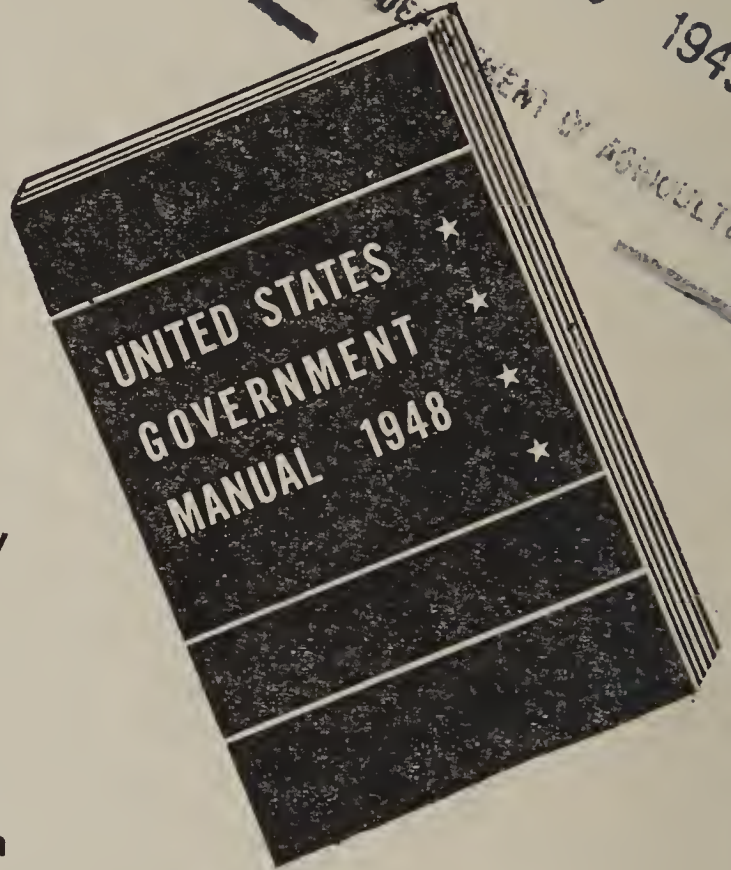
P. 97, F. N. J. 12318: Delete line 3, which duplicates line 4, and substitute “incl., 22983, 22997, 23114, 23118, 23119, 23128. Sample Nos. 2000-H, 54840-H”

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FEDERAL SECURITY AGENCY

FOOD AND DRUG ADMINISTRATION

NOTICES OF JUDGMENT UNDER THE FEDERAL FOOD, DRUG,
AND COSMETIC ACT

[Given pursuant to section 705 of the Food, Drug, and Cosmetic Act]

13351-13500

FOODS

The cases reported herewith were instituted in the United States district courts by the United States attorneys acting upon reports submitted by direction of the Federal Security Administrator.

OSCAR R. EWING, *Administrator, Federal Security Agency.*

WASHINGTON, D. C., *February 7, 1949.*

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BEVERAGES AND BEVERAGE MATERIALS

13351. Adulteration of canned apple juice. U. S. v. 84 Cases * * *. (F. D. C. No. 25404. Sample No. 27385-K.)

LIBEL FILED: August 24, 1948, Eastern District of Arkansas.

ALLEGED SHIPMENT: On or about January 11, 1946, from Traverse City, Mich.

PRODUCT: 84 cases, each containing 12 1-quart, 14-ounce cans, of apple juice at Little Rock, Ark. Examination showed that the product was undergoing chemical decomposition.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance. (The article was adulterated while held for sale after shipment in interstate commerce.)

DISPOSITION: September 22, 1948. Default decree of condemnation and destruction.

13352. Adulteration of canned grapefruit juice. U. S. v. 68 Cases * * *.
(F. D. C. No. 24997. Sample No. 28194-K.)

LIBEL FILED: July 9, 1948, District of New Mexico.

ALLEGED SHIPMENT: On or about March 29, 1946, from McAllen, Tex.

PRODUCT: 68 cases, each containing 24 1-pint, 2-ounce cans, of grapefruit juice at Dawson, N. Mex. Examination showed that the product was contaminated with lacquer from the cans.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article was unfit for food by reason of the presence of lacquer. The article was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: August 23, 1948. Default decree of condemnation and forfeiture. The product was subsequently destroyed.

13353. Adulteration and misbranding of grape punch. U. S. v. 20 Cases * * *.
(F. D. C. No. 23397. Sample No. 82659-H.)

LIBEL FILED: August 6, 1947, District of Oregon.

ALLEGED SHIPMENT: On or about December 18, 1946, and May 9 and June 4, 1947, by the Pacific Citrus Products Co., from Fullerton, Calif.

PRODUCT: 20 cases, each containing 4 1-gallon jugs, of grape punch at Portland, Oreg. Analysis showed that the product was essentially an acidulated, artificially flavored and colored sugar solution containing an insignificant amount of concentrated grape juice.

LABEL, IN PART: "Conco Punch Made with grape juice, cane sugar, true fruit and imitation flavors, tartaric acid, artificial color, $\frac{1}{10}$ of 1% benzoate of soda."

NATURE OF CHARGE: Adulteration, Section 402 (b) (4), artificial flavoring and coloring had been added to the article and mixed and packed with it so as to make it appear better and of greater value than it was.

Misbranding, Section 403 (a), the design of a bunch of grapes and the label statements "Conco Punch Made with grape juice, cane sugar, true fruit and imitation flavors, tartaric acid, artificial color" were misleading as applied to an acidulated, artificially flavored and colored sugar solution containing an insignificant amount of grape juice or concentrated grape juice; and, Section 403 (i) (2), the article was fabricated from two or more ingredients and its label failed to bear the common or usual name of each such ingredient, since water was not declared.

DISPOSITION: February 24, 1948. Default decree of condemnation. The product was ordered delivered to charitable institutions.

13354. Adulteration of orange beverage base. U. S. v. 40 Cases * * *. (F. D. C. No. 23341. Sample No. 50421-H.)

LIBEL FILED: July 7, 1947, Western District of Louisiana.

ALLEGED SHIPMENT: On or about April 13, 1947, by National Orange Products, Inc., Chicago, Ill.

PRODUCT: 40 cases, each containing 4 1-gallon jugs, of orange beverage base at Monroe, La.

LABEL, IN PART: "Victory Orange Base Contains Pure Orange Juice, Sugar, Lemon Juice, Citrus Oils, Esters, Fruit Acid (Citric) and U. S. Certified (artificial) Color, Phenethylurea, Propylene Glycol and Alcohol."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), dulcin, having no food value, had been substituted in whole or in part for sugar; and, Section 402 (b) (4), dulcin had been mixed and packed with the article so as to reduce its quality or strength and make it appear better and of greater value than it was.

DISPOSITION: October 7, 1947. Default decree of condemnation. The product was ordered delivered to a State institution.

13355. Misbranding of tea. U. S. v. 154 Cases * * *. (F. D. C. No. 22973. Sample No. 91173-H.)

LIBEL FILED: May 2, 1947, District of New Jersey.

ALLEGED SHIPMENT: On or about April 2, 1947, by American Stores Co., Inc., from Philadelphia, Pa.

PRODUCT: 154 cases, each containing 10 8-ounce packages, of tea at South Kearny, N. J.

LABEL, IN PART: "Asco Brand Tea * * * Pekoe and Orange Pekoe."

NATURE OF CHARGE: Misbranding, Section 403 (d), the container was so filled as to be misleading, since the tea occupied only approximately 77 percent of the capacity of the packages.

DISPOSITION: July 1, 1947. The American Stores Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond to be repackaged under the supervision of the Food and Drug Administration.

13356. Adulteration of wine. U. S. v. 193 Cases * * *. (F. D. C. No. 22795. Sample No. 43194-H.)

LIBEL FILED: On or about March 31, 1947, Western District of Virginia.

ALLEGED SHIPMENT: On or about September 20, 1946, by the Garcia Wine Corp., from Long Island City, N. Y.

PRODUCT: 193 cases, each containing 12 fifth-gallon bottles, of wine at Roanoke, Va.

LABEL, IN PART: "Blue Ribbon Brand Reserve American Concord Grape Wine."

NATURE OF CHARGE: Adulteration, Section 402 (a) (2), the article contained an added poisonous and deleterious substance, monochloracetic acid, which is unsafe within the meaning of the law, since it is a substance not required in the production of the article and could have been avoided by good manufacturing practice.

DISPOSITION: September 5, 1947. Default decree of condemnation and destruction.

13357. Adulteration of wine. U. S. v. 97 Cases * * *. (F. D. C. No. 25234. Sample No. 6135-K.)

LIBEL FILED: August 3, 1948, Western District of Pennsylvania.

ALLEGED SHIPMENT: On or about November 30, 1946, by the Monte Cassino Wine Co., from Covington, Ky.

PRODUCT: 97 cases, each containing 12 fifth-gallon bottles, of wine at Pittsburgh, Pa. Analysis showed that the product contained monochloracetic acid ranging from 100 to 163 parts per million.

LABEL, IN PART: "American Blackberry Wine Monte Cassino."

NATURE OF CHARGE: Adulteration, Section 402 (a) (2), the article contained an added poisonous and deleterious substance, monochloracetic acid, which is unsafe within the meaning of the law, since it is a substance not required in the production of the article and could have been avoided by good manufacturing practice.

DISPOSITION: August 26, 1948. Default decree of condemnation and destruction.

13358. Adulteration of wine. U. S. v. 56 Cases * * *. (F. D. C. No. 22819. Sample No. 43191-H.)

LIBEL FILED: On or about April 7, 1947, Western District of Virginia.

ALLEGED SHIPMENT: On or about January 18, 1947, by the Morocco Wine Co., from New Brunswick, N. J.

PRODUCT: 56 cases, each containing 12 fifth-gallon bottles, of wine at Danville, Va.

LABEL, IN PART: "Gold Stream American Grape Wine."

NATURE OF CHARGE: Adulteration, Section 402 (a) (2), the product contained an added poisonous and deleterious substance, monochloracetic acid, which is unsafe within the meaning of the law, since it is a substance not required in the production of the food and could have been avoided by good manufacturing practice.

DISPOSITION: September 5, 1947. Default decree of condemnation and destruction.

CEREALS AND CEREAL PRODUCTS

BAKERY PRODUCTS

13359. Adulteration of bakery products. U. S. v. United Biscuit Co. of America (Union Biscuit Co.), a corporation, and Charles E. Kennedy. Pleas of nolo contendere. Corporation fined \$2,000; individual defendant discharged. (F. D. C. No. 24562. Sample Nos. 22175-K, 22177-K, 22180-K, 22182-K, 26824-K to 26831-K, incl.)

INFORMATION FILED: May 10, 1948, Eastern District of Missouri, against the United Biscuit Co. of America, a corporation, trading as the Union Biscuit Co., and Charles E. Kennedy, an individual, St. Louis, Mo.

ALLEGED SHIPMENT: On or about September 29 and October 4, 1947, from the State of Missouri into the States of Tennessee and Mississippi.

LABEL, IN PART: "Princess Crackers," "Chocolate Squares," "Orange Cremes," "Milkolet Dainties," "Graham Crackers," "Butter Flavored Cookies," "Dixie Vanilla Wafers," "Supreme Cracker Meal," or "Cheese Bubbles."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the products consisted in part of filthy substances by reason of the presence of insects, insect fragments and parts, cat hair, and rodent hair; and, Section 402 (a) (4), they had been prepared and packed under insanitary conditions whereby they may have become contaminated with filth.

DISPOSITION: June 4, 1948. A plea of nolo contendere having been entered by each of the defendants, the court imposed a fine of \$2,000 against the corporation, suspended imposition of sentence against the individual defendant, and ordered him discharged.

13360. Adulteration of crackers and cracker meal. U. S. v. United Biscuit Co. of America, a corporation, trading as Colonial Biscuit Co., and Leslie B. Woodgate. Pleas of nolo contendere. Corporation fined \$400 and costs; individual defendant fined \$4. (F. D. C. No. 24818. Sample Nos. 6634-K, 6679-K, 6684-K, 6687-K.)

INFORMATION FILED: July 9, 1948, Western District of Pennsylvania, against the United Biscuit Co. of America, trading as the Colonial Biscuit Co., Pittsburgh, Pa., and Leslie B. Woodgate, superintendent.

ALLEGED SHIPMENT: On or about January 22, March 25, and April 1, 1948, from the State of Pennsylvania into the State of Ohio.

LABEL, IN PART: "Colonial Che-Zo," "Cracker Meal," or "Honey Flavored Graham Crackers."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the products consisted in part of filthy substances by reason of the presence of rodent hair fragments, insect fragments, and cheese mites; and, Section 402 (a) (4), they had been prepared and packed under insanitary conditions whereby they may have become contaminated with filth.

DISPOSITION: August 5, 1948. Pleas of nolo contendere having been entered, the corporation was fined \$400 and costs and the individual defendant was fined \$4.

13361. Adulteration of bread and sweet rolls. U. S. v. Brierly's Bakery, Inc. Plea of guilty. Fine, \$500. (F. D. C. No. 24057. Sample Nos. 52991-H to 52993-H, incl.)

INFORMATION FILED: December 29, 1947, Southern District of Indiana, against Brierly's Bakery, Inc., Union City, Ind.

ALLEGED SHIPMENT: On or about May 27, 1947, from the State of Indiana into the State of Ohio.

LABEL, IN PART: "Brierly's Sweet Rolls," "Brierly's Potato Bread," or "Brierly's * * * Vitamin D Bread."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the products consisted in part of filthy substances by reason of the presence of insects, insect fragments, and rodent hair fragments; and, Section 402 (a) (4), they had been prepared under insanitary conditions whereby they may have become contaminated with filth.

DISPOSITION: April 23, 1948. A plea of guilty having been entered, the defendant was fined \$500.

13362. Adulteration of bread and buns. U. S. v. Robert D. Houck and Virgil Alexander (Amarillo Baking Co.). Pleas of nolo contendere. Defendant Houck fined \$1,000; defendant Alexander fined \$150. (F. D. C. No. 24105. Sample Nos. 48100-H, 91805-H, 91810-H.)

INFORMATION FILED: April 2, 1948, Northern District of Texas, against Robert D. Houck and Virgil Alexander, trading as the Amarillo Baking Co., Amarillo, Tex.

ALLEGED SHIPMENT: On or about February 3, 10, and 12, 1947, from the State of Texas into the State of New Mexico.

LABEL, IN PART: "Houck's Bread [or "Holsum Buns"] Holsum Bakers."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the products consisted in part of filthy substances by reason of the presence of insect parts, rodent hairs, and feather fragments; and, Section 402 (a) (4), they had been prepared and packed under insanitary conditions whereby they may have become contaminated with filth.

DISPOSITION: May 4, 1948. Motions to dismiss and for continuance having been overruled by the court, the defendants entered pleas of nolo contendere. Defendant Houck was fined \$1,000 and defendant Alexander was fined \$150.

13363. Adulteration of coffee cake and pies. U. S. v. The Wassell Bakery, Inc. Plea of nolo contendere. Fine, \$500. (F. D. C. No. 24824. Sample Nos. 13220-K, 13223-K, 13225-K.)

INFORMATION FILED: July 19, 1948, Eastern District of Pennsylvania, against the Wassell Bakery, Inc., Philadelphia, Pa.

ALLEGED SHIPMENT: On or about April 16, 1948, from the State of Pennsylvania into the State of New Jersey.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a filthy substance by reason of the presence of rodent hair fragments, insect parts, and a feather fragment; and, Section 402 (a) (4), it had been prepared, packed, and held under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: August 23, 1948. A plea of nolo contendere having been entered, the defendant was fined \$500.

13364. Adulteration of pretzels. U. S. v. Hygrade Bakery Co. Plea of guilty. Fine, \$500. (F. D. C. No. 24794. Sample Nos. 16201-K, 16202-K, 20924-K, 28412-K, 28413-K.)

INFORMATION FILED: June 29, 1948, Eastern District of Pennsylvania, against the Hygrade Bakery Co., a corporation, Philadelphia, Pa.

ALLEGED SHIPMENT: On or about September 3 and 4, 1947, from the State of Pennsylvania into the States of Michigan, Nebraska, and Colorado.

LABEL, IN PART: "Crispa Pretzel Salty Thins [or "Stix"] * * * Blaney Bakeries, Inc., New York, N. Y.," or "Supreme Pretzels [or "Supreme Pretzel Stix"] Packed For United Biscuit Company of America Chicago, Ill."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the products consisted in part of filthy substances by reason of the presence of rodent hair fragments, hair fragments resembling rodent hair fragments, insects, insect parts, feather fragments, and cat hair fragments; and, Section 402 (a) (4), they had been prepared and packed under insanitary conditions whereby they may have become contaminated with filth.

DISPOSITION: August 23, 1948. A plea of guilty having been entered, the defendant was fined \$500.

13365. Adulteration of pretzels. U. S. v. 65 Cans * * *. (F. D. C. No. 22737. Sample No. 90608-H.)

LIBEL FILED: March 27, 1947, Eastern District of Virginia.

ALLEGED SHIPMENT: On or about February 13 and 21, 1947, by Becker Pretzel Bakeries, Inc., from Baltimore, Md.

PRODUCT: 65 cans each containing 200 pretzels at Norfolk, Va.

LABEL, IN PART: "Becker's Pet-so Pretzels."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insect

fragments and rodent hair fragments; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: April 23, 1947. Default decree of condemnation and destruction.

CORN MEAL*

13366. Adulteration of corn meal. U. S. v. 42 Bags * * *. (F. D. C. No. 24976. Sample No. 22313-K.)

LIBEL FILED: June 25, 1948, Eastern District of Louisiana.

ALLEGED SHIPMENT: On or about February 11, 1948, from Ft. Worth, Tex.

PRODUCT: 42 100-pound bags of corn meal at New Orleans, La. Examination showed that the product contained live adult insects and larvae.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance. (The article was adulterated while held for sale after shipment in interstate commerce.)

DISPOSITION: August 11, 1948. Default decree of condemnation and destruction.

13367. Adulteration of corn meal and Sperry Kreata (wheat product). U. S. v. 47 Sacks * * * (and 1 other seizure action). (F. D. C. No. 25030. Sample Nos. 30956-K, 30957-K.)

LIBELS FILED: July 12, 1948, Southern District of California.

ALLEGED SHIPMENT: On or about March 18 and May 5, 1948, from Lincoln, Nebr., and Ogden, Utah.

PRODUCT: 47 25-pound sacks of corn meal and 140 sacks of Sperry Kreata, a wheat product, at Los Angeles, Calif., in possession of General Mills, Inc., Sperry Division.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the articles consisted in whole or in part of filthy substances by reason of the presence of rodent urine and rodent hairs; and, Section 402 (a) (4), they had been held under insanitary conditions whereby they may have become contaminated with filth. The articles were adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: July 30 and August 16, 1948. General Mills, Inc., Sperry Division, of Minneapolis, Minn., having appeared as claimant for the wheat product and having consented to the entry of a decree, and no claimant having appeared for the corn meal, judgments of condemnation were entered. The wheat product was ordered released under bond for conversion into animal feed, under the supervision of the Federal Security Agency, and the corn meal was ordered destroyed.

13368. Adulteration of corn meal and flour. U. S. v. McAllister & Bell, Inc., and Rob R. McConnell. Pleas of guilty. Each defendant fined \$150. (F. D. C. No. 24786. Sample Nos. 2871-K to 2876-K, incl.)

INFORMATION FILED: June 22, 1948, Western District of Virginia, against McAllister & Bell, Inc., Covington, Va., and Rob R. McConnell, vice-president and manager.

ALLEGED SHIPMENT: On or about November 28 and December 4, 1947, from the State of Virginia into the State of West Virginia.

LABEL, IN PART: "Old Fashion White Bolted Buhr Corn Meal," or "Enriched Mountain Gem Patent Flour."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the products consisted in part of filthy substances by reason of the presence of insect larvae, larval head capsules, insect fragments, mites, rodent excreta pellet fragments, rodent hair fragments, and a feather fragment; and, Section 402 (a) (4), they had been prepared and packed under insanitary conditions whereby they may have become contaminated with filth.

DISPOSITION: July 6, 1948. Pleas of guilty having been entered, each defendant was fined \$150.

*See also Nos. 13369, 13370.

FLOUR*

Nos. 13369 to 13393 report actions involving flour that was insect- or rodent-infested, or both. (In those cases in which the time of contamination was known, that fact is stated in the notice of judgment.)

13369. Adulteration of flour and corn meal. U. S. v. 1,245 Bags * * *.
(F. D. C. No. 25475. Sample Nos. 23801-K to 23819-K, incl.)

LIBEL FILED: August 24, 1948, Eastern District of Louisiana.

ALLEGED SHIPMENT: Between October 23, 1947, and April 6, 1948, from Dallas, Tex.

PRODUCT: 1,245 bags and 224 cases of flour and 137 bags and 236 cases of corn meal at New Orleans, La.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the articles consisted in whole or in part of filthy substances by reason of the presence of insects. The articles were adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: September 14, 1948. The Russell-Miller Milling Co., Dallas, Tex., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the products were ordered released under bond for conversion into stock feed, under the supervision of the Federal Security Agency.

13370. Adulteration of corn flour and corn meal. U. S. v. 18 Bags * * * (and 1 other seizure action). (F. D. C. No. 24999. Sample Nos. 22314-K, 22315-K.)

LIBELS FILED: July 6, 1948, Eastern District of Louisiana.

ALLEGED SHIPMENT: On or about March 2, 1948, from Crete, Nebr.

PRODUCT: 18 100-pound bags of white corn flour and 53 100-pound bags of yellow corn meal at Baton Rouge and New Orleans, La.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the articles consisted in whole or in part of a filthy substance by reason of the presence of insects. The articles were adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: August 12, 1948. Consolidated Companies, Inc., New Orleans, La., claimant, having consented to the entry of decrees, judgments of condemnation were entered and the products were ordered released under bond for conversion into stock feed, under the supervision of the Federal Security Agency.

13371. Adulteration of corn flour. U. S. v. 33 Sacks * * *. (F. D. C. No. 25168. Sample Nos. 22316-K, 22317-K.)

LIBEL FILED: July 16, 1948, Eastern District of Louisiana.

ALLEGED SHIPMENT: On or about May 28 and June 15, 1948, from Lincoln, Nebr.

PRODUCT: 33 100-pound sacks of corn flour at New Orleans, La.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance. (The product was insect-infested.) The article was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: August 13, 1948. Default decree of condemnation and destruction.

13372. Adulteration of flour. U. S. v. Camden Flour Mill and John A. Vance. Pleas of guilty. Fine of \$250 against each defendant. (F. D. C. No. 24546. Sample No. 83444-H.)

LIBEL FILED: April 20, 1948, Southern District of Ohio, against Camden Flour Mill, a partnership, Camden, Ohio, and John A. Vance, a partner.

ALLEGED SHIPMENT: On or about April 15, 1947, from the State of Ohio into the State of Indiana.

LABEL, IN PART: "Pride of Camden Flour."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a filthy substance by reason of the presence of a larva, insect fragments, and rodent hair fragments; and, Section 402 (a) (4), it had been prepared and packed under insanitary conditions whereby it may have become contaminated with filth.

*See also No. 13368.

DISPOSITION: June 2, 1948. Pleas of guilty having been entered, each defendant was fined \$250.

13373. Adulteration of flour. U. S. v. Portales Milling Co. Plea of nolo contendere. Fine, \$100. (F. D. C. No. 24563. Sample No. 29180-K.)

INFORMATION FILED: May 11, 1948, District of New Mexico, against the Portales Milling Co., a partnership, Portales, N. Mex.

ALLEGED SHIPMENT: On or about February 9 and 11, 1948, from the State of New Mexico into the State of Texas.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a filthy substance by reason of the presence of insect fragments, animal hairs resembling rodent hairs, feather barbules, and cat hair; and, Section 402 (a) (4), it had been prepared and packed under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: June 7, 1948. A plea of nolo contendere having been entered, a fine of \$100 was imposed.

13374. Adulteration of flour. U. S. v. 80 Sacks, etc. (F. D. C. No. 25107. Sample No. 275-K.)

LIBEL FILED: On or about July 20, 1948, Northern District of Georgia.

ALLEGED SHIPMENT: On or about June 3, 1948, from Mascoutah, Ill., by the Ph. H. Postel Milling Co.

PRODUCT: 80 50-pound sacks, 120 25-pound sacks, 500 10-pound sacks, 800 5-pounds sacks, and 360 2-pound sacks of flour at Atlanta, Ga.

LABEL, IN PART: "Enriched with Vitamins and Minerals."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insect fragments; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: August 26, 1948. Default decree of condemnation. The product was ordered delivered to a Federal penitentiary, for use as animal feed.

13375. Adulteration of flour. U. S. v. 600 Bags * * *. (F. D. C. No. 25055. Sample No. 45808-K.)

LIBEL FILED: July 16, 1948, Western District of Tennessee.

ALLEGED SHIPMENT: On or about June 26, 1948, by Pillsbury Mills, Inc., from Minneapolis, Minn., via Illinois Central Railroad and connections.

PRODUCT: 600 100-pound bags of flour at Memphis, Tenn.

LABEL, IN PART: "Pillsbury's Durum Granular * * * A Mixture of Semolina and Durum Flour."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of beetles.

DISPOSITION: August 17, 1948. The Illinois Central Railroad having appeared as claimant and consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond for conversion into stock feed, under the supervision of the Federal Security Agency.

13376. Adulteration of flour. U. S. v. 107 Bags * * * (and 1 other seizure action). (F. D. C. No. 25054. Sample Nos. 33612-K, 33613-K.)

LIBEL FILED: July 27, 1948, Northern District of California.

ALLEGED SHIPMENT: On or about February 9 and 18 and May 8, 1948, from Pendleton, Ohio, and Spokane, Wash.

PRODUCT: 177 100-pound bags of flour at Stockton, Calif., in possession of the California Fireproof Transfer & Storage Co.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent pellets, rodent hairs, and rodent urine; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth. (The article was adulterated while held for sale after shipment in interstate commerce.)

DISPOSITION: August 23, 1948. Default decree of condemnation and destruction.

13377. Adulteration of flour. U. S. v. 27 Bags * * *. (F. D. C. No. 25009. Sample No. 25329.)

LIBEL FILED: July 7, 1948, Northern District of Iowa.

ALLEGED SHIPMENT: On or about January 15 and March 20, 1948, from Kansas City, Mo.

PRODUCT: 27 50-pound bags of flour at Dubuque, Iowa, in possession of Dubuque Wholesale Grocer.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent urine; and Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth. The article was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: August 7, 1948. Default decree of condemnation. The product was ordered sold, conditioned that it be denatured under the supervision of the United States marshal and disposed of as animal feed.

13378. Adulteration of flour. U. S. v. 109 Bags * * *. (F. D. C. No. 25011. Sample No. 14152-K.)

LIBEL FILED: July 16, 1948, Northern District of Illinois.

ALLEGED SHIPMENT: On or about May 20, 1948, from Winona, Minn.

PRODUCT: 109 100-pound bags of flour at Chicago, Ill.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of larvae and beetles. The article was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: August 5, 1948. The Gonnella Baking Co., Chicago, Ill., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond for conversion into stock feed, under the supervision of the Federal Security Agency.

13379. Adulteration of flour. U. S. v. 200 Bags * * *. (F. D. C. No. 25005. Sample No. 23231-K.)

LIBEL FILED: July 6, 1948, Eastern District of Louisiana.

ALLEGED SHIPMENT: On or about March 12, 1948, from Wichita Falls, Tex.

PRODUCT: 200 5-pound bags of flour at Thibodaux, La.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insects. The article was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: August 12, 1948. Consolidated Companies, Inc., New Orleans, La., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond for conversion into stock feed, under the supervision of the Federal Security Agency.

13380. Adulteration of flour. U. S. v. 25 Bags (and 2 other seizure actions). (F. D. C. Nos. 24659 to 24661, incl. Sample Nos. 14860-K, 14861-K, 25211-K, 25373-K.)

LIBELS FILED: June 3, 9, and 10, 1948, Northern District of Illinois, Northern District of Iowa, and Eastern District of South Carolina.

ALLEGED SHIPMENT: On or about May 1 and 4, 1948, by the Springfield Milling Corp., from Springfield, Minn.

PRODUCT: Flour. 625 100-pound bags at Chicago, Ill., 10 50-pound bags at Ocheyedan, Iowa, and 10 50-pound bags at Gary, S. Dak.

LABEL, IN PART: "White Swan Fancy Patent [or "Enriched"] Flour," or "Pride of the Northwest Flour [or "Verona Spring Wheat Baker's Flour"]."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insect fragments and rodent hair fragments; and (2 lots), Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: On June 14, 1948, the Springfield Milling Corp., Minneapolis, Minn., claimant for the Chicago lot, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond to be converted into stock feed, under the supervision of the Food and Drug Administration. On July 2 and 13, 1948, no claimant having appeared for the remaining lots, judgments of condemnation were entered. The Gary lot was ordered destroyed, and the other lot was sold to be denatured for use as animal feed.

13381. Adulteration of flour. U. S. v. 75 Bags * * *. (F. D. C. No. 25221. Sample No. 24781-K.)

LIBEL FILED: July 29, 1948, District of South Dakota.

ALLEGED SHIPMENT: On or about April 30 and May 8, 1948, from Great Falls, Mont.

PRODUCT: 75 50-pound bags of flour at Rapid City, S. Dak., in possession of the N. W. Warehouse Co.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent urine and rodent excreta; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth. (The article was adulterated while held for sale after shipment in interstate commerce.)

DISPOSITION: September 8, 1948. Default decree of condemnation and destruction.

13382. Adulteration of flour. U. S. v. 7 Bags, etc. (F. D. C. No. 25182. Sample Nos. 9856-K, 9857-K.)

LIBEL FILED: July 20, 1948, Middle District of Pennsylvania.

ALLEGED SHIPMENT: On or about May 22, 1948, from Minneapolis, Minn.

PRODUCT: 7 100-pound pags and 14 50-pound bags of flour at Scranton, Pa., in possession of the David Spruks Co.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent urine, rodent excreta, and rodent hairs; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth. (The article was adulterated while held for sale after shipment in interstate commerce.)

DISPOSITION: September 17, 1948. Default decree of condemnation and destruction.

13383. Adulteration of flour. U. S. v. 86 Bags * * *. (F. D. C. No. 25191. Sample Nos. 22320-K, 23541-K.)

LIBEL FILED: July 23, 1948, Eastern District of Louisiana.

ALLEGED SHIPMENT: On or about April 27 and May 5, 21, and 29, 1948, from Fort Worth, Tex.

PRODUCT: 55 100-pound bags and 31 50-pound bags of flour at New Orleans, La.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insects. The article was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: August 20, 1948. Bewley Mills, Fort Worth, Tex., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond for conversion into stock feed, under the supervision of the Federal Security Agency.

13384. Adulteration of flour. U. S. v. 110 Sacks, etc. (F. D. C. No. 25172. Sample Nos. 30953-K, 30954-K, 30958-K, 30959-K.)

LIBEL FILED: July 19, 1948, Southern District of California.

ALLEGED SHIPMENT: On or about March 26 and May 10, 1948, from Seattle, Wash.

PRODUCT: 180 100-pound sacks of flour at Vernon, Calif. After shipment in interstate commerce, the product had been stored under insanitary conditions in a warehouse at 4423 Fruitland Avenue, Los Angeles, Calif.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent urine; and, Section 402 (a) (4) it had been held under insanitary conditions whereby it may have become contaminated with filth. The article was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: August 6, 1948. The Fisher Flouring Mills Co., Seattle, Wash., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond for conversion into animal feed, under the supervision of the Federal Security Agency.

13385. Adulteration of flour. U. S. v. 154 Bags * * *. (F. D. C. No. 25256. Sample Nos. 23546-K to 23548-K, incl., 23550-K.)

LIBEL FILED: August 9, 1948, Eastern District of Louisiana.

ALLEGED SHIPMENT: On or about November 26 and December 16, 1947, and April 10 and May 21, 1948, from Louisville, Ky., Wichita Falls, Tex., and Oklahoma City, Okla.

PRODUCT: 154 100-pound bags of flour at New Orleans, La.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insects. The article was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: August 12, 1948. Consolidated Companies, Inc., New Orleans, La., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond for conversion into stock feed, under the supervision of the Federal Security Agency.

13386. Adulteration of flour. U. S. v. 209 Sacks, etc. (F. D. C. No. 24652. Sample Nos. 19273-K, 19276-K.)

LIBEL FILED: May 26, 1948, Northern District of Ohio.

ALLEGED SHIPMENT: On or about April 13, 1948, by LaGrange Mills, from Red Wing, Minn.

PRODUCT: 503 100-pound sacks of flour at Cleveland, Ohio.

LABEL, IN PART: "Chieftain," or "Goodhue Extra Fancy Clear Flour."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insect fragments and rodent hair fragments; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: July 19, 1948. LaGrange Mills, Red Wing, Minn., claimant, having admitted the facts in the libel, judgment of condemnation was entered and the product was ordered released under bond to be denatured for use as animal feed, under the supervision of the Food and Drug Administration.

13387. Adulteration of flour. U. S. v. 24 Sacks * * *. (F. D. C. No. 25193. Sample No. 22319-K.)

LIBEL FILED: July 23, 1948, Eastern District of Louisiana.

ALLEGED SHIPMENT: On or about May 28, 1948, from Lincoln, Nebr.

PRODUCT: 24 100-pound sacks of flour at New Orleans, La.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance. (The product was insect-infested.) The article was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: On or about September 1, 1948. Default decree of condemnation and destruction.

13388. Adulteration of phosphated flour. U. S. v. 172 Bags * * *. (F. D. C. No. 22841. Sample No. 41036-H.)

LIBEL FILED: April 14, 1947, Eastern District of Arkansas.

ALLEGED SHIPMENT: On or about February 25, 1947, by the Acme Flour Mills Co., from Oklahoma City, Okla.

PRODUCT: 172 5-pound bags of phosphated flour at Stuttgart, Ark.

LABEL, IN PART: "The Magic Miller's Best 5 Lbs. Enriched Phosphated Flour."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insect parts; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: May 15, 1947. Default decree of condemnation and destruction.

13389. Adulteration of self-rising flour. U. S. v. 219 Bags * * *. (F. D. C. No. 25073. Sample No. 22107-K.)

LIBEL FILED: July 12, 1948, Northern District of Florida.

ALLEGED SHIPMENT: On or about February 14 and March 15, 1948, from Fort Worth, Tex.

PRODUCT: 219 25-pound bags of self-rising flour at Pensacola, Fla.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insects. The article was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: September 4, 1948. The Peninsular-Lurton Co., Pensacola, Fla., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be denatured under the supervision of the Food and Drug Administration.

13390. Adulteration of cake flour. U. S. v. 275 Bags * * *. (F. D. C. No. 25047. Sample No. 31363-K.)

LIBEL FILED: July 14, 1948, Southern District of California.

ALLEGED SHIPMENT: On or about January 31, March 26, and April 27, 1948, from Twin Falls, Idaho.

PRODUCT: 275 100-pound bags of cake flour at Los Angeles, Calif., in possession of the Sunset Milling & Grain Co. The product was stored under insanitary conditions after shipment. Rodent urine and rodent pellets were observed on the bags, and examination showed that the product contained rodent urine.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth. The article was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: July 29, 1948. The Sunset Milling and Grain Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond for conversion into animal feed, under the supervision of the Federal Security Agency.

13391. Adulteration of buckwheat flour and self-rising buckwheat and wheat flour compound. U. S. v. 274 Bags, etc. (F. D. C. No. 23960. Sample Nos. 24912-K, 24914-K.)

LIBEL FILED: December 5, 1947, Northern District of Illinois.

ALLEGED SHIPMENT: On or about October 13, 1947, by the Sarrington Milling Co., from Lake Delton, Wis.

PRODUCT: 274 5-pound bags of buckwheat flour and 123 bales, each containing 12 4-pound bags, of self-rising buckwheat and wheat flour compound at Freeport, Ill.

LABEL, IN PART: "K & S Pure Buckwheat Flour," or "K & S Self-Rising Buckwheat and Wheat Flour Compound."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the articles consisted in whole or in part of filthy substances by reason of the presence of larvae, insect fragments, and rodent hairs; and, Section 402 (a) (4), they had been prepared under insanitary conditions whereby they may have become contaminated with filth.

DISPOSITION: August 5, 1948. Russell Knobel, Freeport, Ill., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the products were ordered released under bond for conversion into stock feed, under the supervision of the Federal Security Agency.

13392. Adulteration of whole wheat flour. U. S. v. 4 Bags * * *. (F. D. C. No. 25013. Sample No. 19077-K.)

LIBEL FILED: July 8, 1948, District of Ohio.

ALLEGED SHIPMENT: On or about August 29, 1947, from New Ulm, Minn.

PRODUCT: 4 100-pound bags of whole wheat flour at Dayton, Ohio.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of larvae. (The product was adulterated while held for sale after shipment in interstate commerce.)

DISPOSITION: June 24, 1948. A plea of guilty having been entered, the defendant struction. On September 20, 1948, an amended decree was entered, providing for the conversion of the product into stock feed.

13393. Adulteration of soybean flour. U. S. v. 275 Bags, etc. (F. D. C. No. 25203. Sample Nos. 31905-K, 31906-K.)

LIBEL FILED: July 23, 1948, Southern District of California.

ALLEGED SHIPMENT: On or about May 17 and August 4, 1947, from Galewood, Ill.

PRODUCT: 475 100-pound bags of soybean flour at Los Angeles, Calif.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insects. The article was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: September 21, 1948. The Glidden Co., Cleveland, Ohio, claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond for conversion into animal or poultry feed, under the supervision of the Federal Security Agency.

MACARONI AND NOODLE PRODUCTS

13394. Adulteration of macaroni and noodle products. U. S. v. Superior Macaroni Co., a partnership, and Alfred L. Spadafora and Emil Spadafora. Pleas of nolo contendere. Fines of \$200 against partnership and \$600 against each individual defendant. (F. D. C. No. 24070. Sample Nos. 72013-H, 72014-H.)

INFORMATION FILED: February 4, 1948, Southern District of California, against the Superior Macaroni Co., a partnership, Los Angeles, Calif., and Alfred L. Spadafora and Emil Spadafora, partners.

ALLEGED SHIPMENT: On or about July 28, 1947, from the State of California into the State of Arizona.

LABEL, IN PART: "Superio Brand 100% Semolina Spaghetti [or "Semolina Products"] Manufactured by Superior Macaroni Company."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the products consisted in part of filthy substances by reason of the presence of beetle fragments, rodent hairs, hairs resembling rodent hairs, and whole insects; and, Section 402 (a) (4), they had been prepared and packed under insanitary conditions whereby they may have become contaminated with filth.

DISPOSITION: April 30, 1948. Pleas of nolo contendere having been entered on behalf of the defendants, the court imposed a fine of \$200 against the partnership and \$600 against each individual defendant.

13395. Adulteration of macaroni, spaghetti, and egg noodles. U. S. v. 10 Cases, etc. (F. D. C. No. 24653. Sample Nos. 21477-K to 21479-K, incl.)

LIBEL FILED: June 1, 1948, District of Nebraska.

ALLEGED SHIPMENT: On or about March 6, 1948, by the Quality Macaroni Co., from St. Paul, Minn.

PRODUCT: 10 cases, each containing 24 2-pound packages, of macaroni, 10 cases, each containing 24 2-pound packages, of spaghetti, and 34 cases, each containing 12 1-pound packages, of egg noodles at Norfolk, Nebr.

LABEL, IN PART: "Our Family Macaroni [or "Spaghetti," or "Pure Egg Noodles"]."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the articles consisted in whole or in part of filthy substances by reason of the presence of insect fragments, rodent hair fragments, and rodent excreta; and, Section 402 (a) (4), they had been prepared under insanitary conditions whereby they may have become contaminated with filth.

DISPOSITION: September 8, 1948. Default decree of condemnation and destruction.

13396. Adulteration and misbranding of egg noodles. U. S. v. 39 Cases, etc. (and 1 other seizure action). (F. D. C. Nos. 24893, 24900. Sample Nos. 8131-K, 8308-K.)

LIBELS FILED: June 21 and 24, 1948, District of Connecticut and District of New Jersey.

ALLEGED SHIPMENT: On or about May 13 and 19, 1948, by the Chasin Noodle Co., from Brooklyn, N. Y.

PRODUCT: Egg Noodles. 39 cases, each containing 24 packages, and 29 cases, each containing 12 packages, at Bridgeport, Conn., and 72 dozen packages at Newark, N. J.

LABEL, IN PART: "Chasin's Pure Egg Noodles."

NATURE OF CHARGE: Adulteration, Section 402 (b) (1), a valuable constituent, egg, had been in whole or in part omitted from the article.

Misbranding, Section 403 (g) (1), the article failed to conform to the definition and standard of identity for egg noodles, since the total solids of the article contained less than 5.5 percent by weight of the solids of egg or egg yolk; and, Section 403 (e) (2), it (Bridgeport lot) failed to bear a label containing an accurate statement of the quantity of the contents. (The cartons contained less than "8 Ounces" or "One Pound," the declared weight.)

DISPOSITION: July 20 and August 16, 1948. Default decrees of condemnation. The product was ordered delivered to a charitable institution.

13397. Adulteration of canned spaghetti. U. S. v. 607 Cases * * *. (F. D. C. No. 22501. Sample No. 52200-H.)

LIBEL FILED: February 11, 1947, District of Minnesota.

ALLEGED SHIPMENT: On or about October 15, 1946, by the Archer Products Co., from Fort Worth, Tex.

PRODUCT: 607 cases, each containing 48 15¼-ounce cans, of spaghetti at Minneapolis, Minn.

LABEL, IN PART: "Schicks Castle Brand Spaghetti with Tomato Sauce and Spices * * * Packed By Schick Products Company Fort Worth, Texas."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

DISPOSITION: June 2, 1947. Archer Products Co., Inc., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond to be brought into compliance with the law by segregation of the unfit portion, under the supervision of the Food and Drug Administration. The reconditioning operations resulted in the destruction of 108 cans, which consisted of swells and springers.

13398. Misbranding of macaroni. U. S. v. 10 Cases * * *. (F. D. C. No. 24591. Sample No. 6091-K.)

LIBEL FILED: April 8, 1948, Western District of Pennsylvania.

ALLEGED SHIPMENT: On or about March 2, 1948, by Gioia Macaroni Co., Inc., from Rochester, N. Y.

PRODUCT: 10 cases, each containing 20 packages, of macaroni at Pittsburgh, Pa.

LIBEL, IN PART: "Net Weight One Pound Gioia Brand Small Shells Macaroni Products."

NATURE OF CHARGE: Misbranding, Section 403 (e) (2), the article failed to bear a label containing an accurate statement of the quantity of the contents. (The article was short-weight.)

DISPOSITION: August 10, 1948. Default decree of condemnation and destruction.

MISCELLANEOUS CEREALS AND CEREAL PRODUCTS*

13399. Adulteration of pulverized white oats (animal feed). U. S. v. Frank W. Schafer (Frank W. Schafer Feeds). Plea of nolo contendere. Fine, \$500 and costs. (F. D. C. No. 23607. Sample No. 44984-H.)

INFORMATION FILED: October 31, 1947, Southern District of Illinois, against Frank W. Schafer, trading as Frank W. Schafer Feeds, Galesburg, Ill.

ALLEGED SHIPMENT: On or about November 27, 1946, from the State of Illinois into the State of California.

LABEL, IN PART: "Pulverized Oats Ingredients: Sound Whole Oats Pulverized."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), calcium carbonate had been substituted in whole or in part for pulverized oats, which the product purported and was represented to be. (Analysis showed the presence of approximately 5 percent of calcium carbonate.)

DISPOSITION: July 28, 1948. A plea of nolo contendere having been entered, the defendant was fined \$500 and costs.

13400. Adulteration of rolled oats. U. S. v. 29 Bags * * *. (F. D. C. No. 25197. Sample No. 22318-K.)

LIBEL FILED: July 23, 1948, Eastern District of Louisiana.

ALLEGED SHIPMENT: On or about April 2, 1948, from St. Joseph, Mo.

PRODUCT: 29 100-pound bags of rolled oats at New Orleans, La.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of weevils, larvae, and insect parts. The article was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: September 1, 1948. Default decree of condemnation and destruction.

13401. Adulteration of corn grits. U. S. v. 39 Sacks * * *. (F. D. C. No. 25015. Sample No. 45721-K.)

LIBEL FILED: July 7, 1948, Eastern District of Missouri.

ALLEGED SHIPMENT: On or about June 23, 1948, from Highland, Ill.

PRODUCT: 39 100-pound sacks of corn grits at St. Louis, Mo.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insects. (The article was adulterated while held for sale after shipment in interstate commerce.)

DISPOSITION: August 26, 1948. Default decree of condemnation. The product was ordered sold to be denatured and used for purposes other than human consumption.

13402. Adulteration of soy grits. U. S. v. 20 Bags * * *. (F. D. C. No. 25029. Sample No. 30346-K.)

LIBEL FILED: July 9, 1948, Southern District of California.

ALLEGED SHIPMENT: On or about February 24, 1948, from Fort Wayne, Ind.

PRODUCT: 20 100-pound bags of soy grits at Los Angeles, Calif.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of mold. The article was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: August 16, 1948. Default decree of condemnation and destruction.

13403. Adulteration of rice. U. S. v. 25 Bags * * *. (F. D. C. No. 25130. Sample No. 40135-K.)

LIBEL FILED: July 26, 1948, District of Maryland.

ALLEGED SHIPMENT: On or about May 14, 1948, from Stuttgart, Ark.

PRODUCT: 25 100-pound bags of rice at Baltimore, Md.

*See also No. 13367.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insects. The article was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: September 1, 1948. W. H. Kirkwood & Son, claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be denatured for use as animal feed, under the supervision of the Food and Drug Administration.

13404. Misbranding of wheat germ. U. S. v. 12 Cases * * *. (F. D. C. No. 24852. Sample No. 43048-K.)

LIBEL FILED: May 20, 1948, Eastern District of Wisconsin.

ALLEGED SHIPMENT: On or about April 1, 1948, by Kretschmer Corp., from Carrollton, Mich.

PRODUCT: 12 cases, each containing 12 12-ounce jars, of wheat germ at Milwaukee, Wis.

LABEL, IN PART: (Jar) "One ounce of Kretschmer's Toasted Wheat Germ equals All of the following: [picture of a bowl presumably containing cereal] 4 oz. oatmeal (in B₁, for body tone), [picture of a beef steak] 1½ ozs. lean beef (in protein, for muscle building), [picture of a graham cracker] 3 Graham crackers (in calories, for energy), [picture of raisins] 4.6 ozs. raisins (in iron, for blood building)."

NATURE OF CHARGE: Misbranding, Section 403 (a), certain statements and designs on the jar label and in a circular entitled "Wheat Germ" inserted under the label of the jar were false and misleading. These statements and designs represented and suggested that the product was nonfattening; that the diets of individuals in this country are generally deficient in vitamin B₁; that the product would be effective in the prevention and treatment of loss of appetite, muscular weakness, low body temperature, and other serious physical and nerve disorders; that use of the product would insure normal health and would promote regular bowel activity; and that one ounce of the product was equal in food value to the total food value of the foods listed on the jar label. The product would not be efficacious for the purposes represented and suggested, and 1 ounce of the article was not equal in food value to the total food value of the various foods listed on the jar label.

Further misbranding, Section 403 (j), the product purported to be a food for special dietary uses by reason of its vitamin A, vitamin G, vitamin E, calcium, iron, and phosphorus content, and its label failed to bear, as required by the regulations, a statement of the proportion of the minimum daily requirements of vitamin A, vitamin G, vitamin E, calcium, iron, and phosphorus supplied by the food when consumed in a specified quantity during a period of one day; and the need in human nutrition for vitamin E not having been established, its label failed to bear the statement that the need for vitamin E in human nutrition has not been established.

DISPOSITION: August 3, 1948. Default decree of condemnation. The product was ordered delivered to a charitable institution.

13405. Adulteration and misbranding of Dwarfies Wheatmix. U. S. v. 40 Cases * * *. (F. D. C. No. 24412. Sample No. 20852-K.)

LIBEL FILED: On or about February 6, 1948, Western District of Missouri.

ALLEGED SHIPMENT: On or about December 3, 1947, by Dwarfies Corp., from Council Bluffs, Iowa.

PRODUCT: 40 cases, each containing 18 packages, of Dwarfies Wheatmix at St. Joseph, Mo. Examination showed that the product contained less than 1 percent of wheat germ.

LABEL, IN PART: (Package) "Dwarfies Wheatmix My Favorite Breakfast Food Net Weight 1¾ Lbs."

NATURE OF CHARGE: Adulteration, Section 402 (b) (1), wheat germ had been omitted from the article.

Misbranding, Section 403 (a), the following label statements were false and misleading as applied to the article, which contained less than 1 percent of wheat germ: "The Added Wheat Germ gives it a Richer Wheat Flavor * * *

Very Rich in Wheat Germ * * * The tiny gold-colored particles in this food are known as Wheat Germ. This is the most flavorful and the most nourishing part of whole wheat. Wheatmix, with its liberal addition of rich nourishing wheat germ supplies a greater store of the natural food elements."

DISPOSITION: March 29, 1948. Default decree of destruction.

13406. Misbranding of millet cereal. U. S. v. 38 Cases, etc. (and 1 other seizure action). (F. D. C. Nos. 24118, 24172. Sample Nos. 9271-K, 15106-K, 15107-K.)

LIBELS FILED: December 9 and 12, 1947, Northern District of Illinois and Eastern District of New York.

ALLEGED SHIPMENT: On or about October 7, 9, 15, and 30, 1947, by the Red Mill Products Co., from St. Paul, Minn.

PRODUCT: 38 cases and 50 cases of millet cereal at Chicago, Ill., and Brooklyn, N. Y., respectively, together with a number of accompanying leaflets entitled "Red Mill Proso Millet Cereal." Each case contained 12 1-pound packages. Examination showed that the product was ground millet.

LABEL, IN PART: "Red Mill Proso Millet Cereal."

NATURE OF CHARGE: Misbranding, Section 403 (a), certain statements in the leaflets were false and misleading, since they represented and suggested that the article would furnish substantial quantities of all essential food elements, and that it would be effective to improve health, to build firm, healthy flesh, to insure vigor and energy, to prevent all chronic diseases, to prevent cancer, tuberculosis, and soft teeth, to provide minerals important to the body not provided by a good varied diet, and to build tall, sturdy bodies. The article would not furnish substantial quantities of all essential food elements, and it would not be effective for the purposes represented.

Further misbranding, Section 403 (j), the article purported to be and was represented as a food for special dietary uses by reason of its content of vitamin B₁ and riboflavin; and its label failed to bear, as required by the regulations, a statement of the proportion of the minimum daily requirements of vitamin B₁ and riboflavin supplied by the article when consumed in a specified quantity during a period of one day.

The article was alleged also to be misbranded under the provisions of the law applicable to drugs, as reported in notices of judgment on drugs and devices, No. 2431.

DISPOSITION: January 29, and March 8, 1948. Default decrees of condemnation and destruction.

13407. Adulteration of corn muffin mix and vanilla cake mix. U. S. v. 16 Cases * * * (and 2 other seizure actions). (F. D. C. Nos. 24350, 24710, 24716. Sample Nos. 3323-K, 4964-K, 4966-K.)

LIBELS FILED: February 13 and April 7 and 9, 1948, District of Maryland and District of Massachusetts.

ALLEGED SHIPMENT: On or about December 18, 1947, and February 18 and 27, and March 1 and 2, 1948, by the Cramer Products Co., from New York, N. Y.

PRODUCT: 16 cases of corn muffin mix at Baltimore, Md., and 249 cases of vanilla cake mix and 67 cases of corn muffin mix at Somerville, Mass. Each case contained 24 10-ounce packages.

LABEL, IN PART: "Joy Corn Muffin [or "Vanilla Cake"] Mix."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the articles consisted in whole or in part of filthy substances by reason of the presence of rodent hair fragments, larvae, and insects and insect fragments.

DISPOSITION: March 18, July 14, and August 31, 1948. Default decrees of condemnation and destruction.

13408. Adulteration of dough mix. U. S. v. 20 Bags * * *. (F. D. C. No. 24981. Sample No. 27815-K.)

LIBEL FILED: June 29, 1948, Eastern District of Missouri.

ALLEGED SHIPMENT: On or about January 8, 1947, from Galewood, Ill.

PRODUCT: 20 100-pound bags of dough mix at St. Louis, Mo.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insects. (The article was adulterated while held for sale after shipment in interstate commerce.)

DISPOSITION: July 23, 1948. Default decree of condemnation. The product was ordered sold, conditioned that it be denatured for use other than human consumption, under the supervision of the United States marshal.

13409. Adulteration of cornstarch and dried corn sirup. U. S. v. 1 Bag, etc. (F. D. C. No. 25017. Sample Nos. 6128-K, 6129-K.)

LIBEL FILED: July 9, 1948, Western District of Pennsylvania.

ALLEGED SHIPMENT: On or about June 1, 1948, from Clinton, Iowa.

PRODUCT: 1 100-pound bag of cornstarch and 3 100-pound bags of dried corn sirup at Pittsburgh, Pa.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the articles consisted in whole or in part of filthy substances by reason of the presence of rodent excreta and rodent urine. The articles were adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: August 10, 1948. Default decree of condemnation and destruction.

CHOCOLATE AND CANDY*

13410. Adulteration of chocolate coating. U. S. v. 4 Cases * * *. (F. D. C. No. 25393. Sample No. 25241-K.)

LIBEL FILED: August 17, 1948, Northern District of Iowa.

ALLEGED SHIPMENT: On or about May 7 and 20, 1948, from Hershey, Pa.

PRODUCT: 4 cases, each containing 5 50-pound cakes, of chocolate coating at Spencer, Iowa.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of rodent-gnawed chocolate and rodent excreta. The article was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: September 17, 1948. Default decree of condemnation and destruction.

13411. Adulteration of candy. U. S. v. Starr Confections, Inc. Plea of guilty. Fine, \$1,000 and costs. (F. D. C. No. 24081. Sample Nos. 69515-H, 18119-K, 18120-K, 18122-K, 19043-K.)

INFORMATION FILED: April 30, 1948, Northern District of Illinois, against Starr Confections, Inc., Chicago, Ill.

ALLEGED SHIPMENT: On or about August 5, 8, and 11, 1947, from the State of Illinois into the States of Kentucky, Tennessee, and Wisconsin.

LABEL, IN PART: "Starr * * * Divinity Fudge [or "Holiday Assortment"]."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a filthy substance by reason of the presence of insect fragments, insects, rodent hairs, hair resembling rodent hair, and cat hair; and, Section 402 (a) (4), it had been prepared and packed under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: June 24, 1948. A plea of guilty having been entered, the defendant was fined \$1,000 and costs.

13412. Adulteration of candy. U. S. v. Reymer & Brothers, Inc. Plea of guilty. Fine, \$500 and costs. (F. D. C. No. 10622. Sample Nos. 21823-F, 21826-F, 21958-F, 33788-F, 33793-F.)

INFORMATION FILED: January 31, 1944, Western District of Pennsylvania, against Reymer & Brothers, Inc., Pittsburgh, Pa.

ALLEGED SHIPMENT: On or about April 13 and 15, May 5 and 6, and June 25, 1943, from the State of Pennsylvania into the State of Ohio.

*See also No. 13492.

LABEL, IN PART: "Metropolitan Chocolates," "Reymers' Very Best," "Chocolate Selections," "Milk Chocolates," or "Chocolates Royale."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent hair fragments, hair fragments resembling rodent hairs, and an insect fragment; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: February 14, 1944. A plea of guilty having been entered, the defendant was fined \$500, together with costs.

13413. Adulteration of candy. U. S. v. Candymasters, Incorporated. Plea of guilty. Fine, \$250. (F. D. C. No. 24809. Sample Nos. 24064-K, 24066-K, 24466-K, 24898-K.)

INFORMATION FILED: July 3, 1948, District of Minnesota, against Candymasters, Inc., Minneapolis, Minn.

ALLEGED SHIPMENT: Between the approximate dates of December 3, 1947, and January 26, 1948, from the State of Minnesota into the States of Iowa, North Dakota, and Wisconsin.

LABEL, IN PART: "Walnut Hill," or "Master Mint."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a filthy substance by reason of the presence of rodent hair fragments and insect fragments; and, Section 402 (a) (4), it had been prepared and packed under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: August 6, 1948. A plea of guilty having been entered, the defendant was fined \$250.

13414. Adulteration of candy. U. S. v. 56 Cases * * * (and 1 other seizure action). (F. D. C. No. 23018. Sample Nos. 71140-H, 71323-H.)

LIBELS FILED: May 7 and 22, 1947, Southern District of California.

ALLEGED SHIPMENT: On or about March 28, 1947, by Harry Wartnik, from Honolulu, T. H.

PRODUCT: Candy bars. 56 cases, each containing 12 packages, at Los Angeles, Calif., and 615 cases, each containing 20 cartons, and 2,140 cases, each containing 12 packages, at Wilmington, Calif. The cartons and packages each contained 12 4-ounce candy bars or 24 2-ounce candy bars.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insects and insect excreta.

DISPOSITION: On September 25 and 26, 1947, Harry Wartnik, claimant, having consented to the entry of decrees, judgments of condemnation were entered and the product was ordered released under bond to be disposed of as hog feed or for purposes other than for human consumption, under the supervision of the Food and Drug Administration.

13415. Adulteration of candy. U. S. v. 27 Dozen Boxes * * * (and 1 other seizure action). (F. D. C. Nos. 22620, 22691. Sample Nos. 65080-H, 66054-H.)

LIBELS FILED: March 12, 1947, Eastern and Middle Districts of Pennsylvania.

ALLEGED SHIPMENT: On or about December 23, 1946, and January 10, 1947, by Shaghalian's, Inc., from Boston, Mass.

PRODUCT: Chocolates. 27 dozen 1-pound boxes at Sunbury, Pa., and 24 1-pound boxes at Tamaqua, Pa.

LABEL, IN PART: "Julia Nolte's Assorted Chocolates * * * Classic."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of rodent hair fragments; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: April 8 and July 25, 1947. Default decrees of condemnation and destruction.

13416. Adulteration and misbranding of Nut Krunch. U. S. v. 1 Drum * * *
(and 1 other seizure action). (F. D. C. Nos. 25097, 25098. Sample Nos. 966-K, 967-K.)

LIBELS FILED: On or about July 20, 1948, Northern District of Georgia.

ALLEGED SHIPMENT: On or about May 26, 1948, by Brokay Products, from Philadelphia, Pa.

PRODUCT: 2 35-pound drums of Nut Krunch at Hapeville, Ga.

LABEL, IN PART: "Brokay '90' Nut Krunch Almond Flavored."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), a substance consisting essentially of soy beans with a small amount of chopped peanuts had been substituted for "Nut Krunch."

Misbranding, Section 403 (a), the name "Nut Krunch" was false and misleading; and Section 403 (i) (2), the article was fabricated from two or more ingredients and its label failed to bear the common or usual name of each such ingredient, since the name of one of the ingredients present, soy beans, had been omitted from the label.

DISPOSITION: August 26, 1948. Default decrees of condemnation. The product was ordered delivered to a Federal penitentiary, for use as animal feed.

13417. Adulteration of chocolate-covered cherries. U. S. v. 19 Boxes * * *
 (F. D. C. No. 24755. Sample No. 4931-K.)

LIBEL FILED: May 3, 1948, District of Massachusetts.

ALLEGED SHIPMENT: On or about March 31, 1948, by the Pitt Chocolate Co., from Wilkinsburg, Pa.

PRODUCT: 19 13-ounce boxes of chocolate-covered cherries at Boston, Mass.

LABEL, IN PART: "Pitt Finest Cordial Chocolate Covered Stem Cherries."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insect fragments and rodent hair fragments; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: August 31, 1948. Default decree of condemnation and destruction.

13418. Misbranding of Coconut Chips. U. S. v. 38 Cases * * * (F. D. C. No. 25170. Sample Nos. 30300-K, 30347-K, 30348-K.)

LIBEL FILED: July 19, 1948, Southern District of California.

ALLEGED SHIPMENT: On or about May 8 and 29, 1948, by the Polynesian Food Specialties, Ltd., from Honolulu, T. H.

PRODUCT: 38 cases, each containing 24 cans, of Coconut Chips at Los Angeles, Calif.

LABEL, IN PART: "Kokies Hawaiian Coconut Chips Net Contents 4 ounces."

NATURE OF CHARGE: Misbranding, Section 403 (e) (2), the article failed to bear a label containing an accurate statement of the quantity of the contents. (The article was short-weight.)

DISPOSITION: August 5, 1948. The May Department Stores Co., Los Angeles, Calif., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond for relabeling under the supervision of the Federal Security Agency.

DAIRY PRODUCTS

BUTTER*

The following cases report actions involving butter that was below the legal standard for milk fat content, Nos. 13419 to 13425.

13419. Adulteration of butter. U. S. v. Berger Creamery Co. Plea of nolo contendere. Fine, \$50 and costs. (F. D. C. No. 24537. Sample No. 8824-K.)

INFORMATION FILED: May 28, 1948, District of Nebraska, against the Berger Creamery Co., a partnership, South Sioux City, Nebr.

ALLEGED SHIPMENT: On or about July 29, 1947, from the State of Nebraska into the State of New York.

*See also Nos. 13426, 13427.

NATURE OF CHARGE: Adulteration, Section 402 (b) (1), a valuable constituent, milk fat, had been in part omitted; and, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

DISPOSITION: July 16, 1948. A plea of nolo contendere having been entered, the defendant was fined \$50.

13420. Adulteration of butter. U. S. v. 81 Boxes (approximately 5,265 pounds) * * *. (F. D. C. No. 25530. Sample No. 9216-K.)

LIBEL FILED: July 30, 1948, Southern District of New York.

ALLEGED SHIPMENT: On or about July 19, 1948, by Knoxville Creamery, from Knoxville, Iowa.

PRODUCT: 81 boxes, each containing approximately 65 pounds, of butter at New York, N. Y.

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

DISPOSITION: August 18, 1948. Knoxville Co-op Creamery, Knoxville, Iowa, claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be reworked under the supervision of the Food and Drug Administration.

13421. Adulteration of butter. U. S. v. 9 Boxes (567 pounds) * * *. (F. D. C. No. 24936. Sample Nos. 15943-K, 25403-K.)

LIBEL FILED: June 14, 1948, Northern District of Illinois.

ALLEGED SHIPMENT: On or about May 26, 1948, by Traill County Farmers Union Produce, from Hillsboro, N. Dak.

PRODUCT: 9 boxes, each containing 63 pounds of butter at Chicago, Ill.

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

DISPOSITION: June 23, 1948. The H. C. Christians Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond to be reworked under the supervision of the Food and Drug Administration.

13422. Adulteration and misbranding of butter. U. S. v. 20 Cartons (1,260 pounds) * * *. (F. D. C. No. 24935. Sample No. 25402-K.)

LIBEL FILED: June 4, 1948, Southern District of New York.

ALLEGED SHIPMENT: On or about May 24, 1948, by the Farmers Cooperative Creamery, from Montevideo, Minn.

PRODUCT: 20 63-pound cartons of butter at New York, N. Y.

LABEL, IN PART: "Butter."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

Misbranding, Section 403 (a), the label statement "Butter" was false and misleading, as the article contained less than 80 percent milk fat.

DISPOSITION: June 18, 1948. The Farmers Cooperative Creamery Association, claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond for reworking under the supervision of the Federal Security Agency.

13423. Adulteration of butter. U. S. v. 10 Cartons (650 pounds) * * *. (F. D. C. No. 25529. Sample No. 25966-K.)

LIBEL FILED: July 26, 1948, Northern District of Illinois.

ALLEGED SHIPMENT: On or about July 13, 1948, by the Leola Creamery Co., from Leola, S. Dak.

PRODUCT: 10 65-pound cartons of butter at Chicago, Ill.

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

DISPOSITION: August 11, 1948. The Peter Fox Sons Co., claimant, having admitted the facts in the libel, judgment of condemnation was entered ordering the product released under bond to be reworked under the supervision of the Food and Drug Administration.

13424. Adulteration of butter. U. S. v. 9 Cartons (576 pounds) * * *. (F. D. C. No. 25532. Sample No. 25709-K.)

LIBEL FILED: July 30, 1948, Eastern District of Pennsylvania.

ALLEGED SHIPMENT: On or about July 17, 1948, by the Wilder Coop. Creamery Co., from Wilder, Minn.

PRODUCT: 9 64-pound cartons of butter at Philadelphia, Pa.

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

DISPOSITION: August 4, 1948. C. G. Heyd & Co., Philadelphia, Pa., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond to be reconditioned under the supervision of the Food and Drug Administration.

13425. Adulteration of butter. U. S. v. 8 Cartons (512 pounds) * * *. (F. D. C. 25531. Sample No. 25711-K.)

LIBEL FILED: August 6, 1948, Southern District of New York.

ALLEGED SHIPMENT: On or about August 2, 1948, by the Bowman Cooperative Creamery, from Bowman, N. Dak.

PRODUCT: 8 64-pound cartons of butter at New York, N. Y.

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), a product containing less than 80 percent by weight of milk fat had been substituted for butter.

DISPOSITION: August 19, 1948. The Bowman Creamery Co., claimant, having admitted the allegations of the libel, judgment of condemnation was entered and the product was ordered released under bond to be reworked under the supervision of the Food and Drug Administration.

CHEESE

13426. Action to enjoin and restrain the interstate shipment of cheese and other dairy products. U. S. v. Gem Valley Dairymen's Cooperative Association, Inc., and Kraft Foods Co. Injunction granted. (Inj. No. 157.)

COMPLAINT FILED: January 13, 1947, District of Idaho, against Gem Valley Dairymen's Cooperative Association, Inc., Thatcher, Idaho, and the Kraft Foods Co., Pocatello, Idaho.

NATURE OF CHARGE: The complaint alleged that the Gem Valley Dairymen's Cooperative Association, Inc., had been and was engaged in producing cheese, butter, and other dairy products in its plant at Thatcher, Idaho; that the Kraft Foods Co. had been and was engaged in receiving cheese from the Gem Valley Dairymen's Cooperative Association, Inc., for shipment in interstate commerce; that on or about April 30, June 29, and July 7, 1942, the Gem Valley Dairymen's Cooperative Association, Inc., was advised by the Kraft Foods Co. that it was necessary to make rejections of cheese manufactured by the former, because it contained rodent hairs, insect parts, and excessive extraneous matter, and was warned to eliminate mice from its plant; that on June 14 and August 13, 14, 15, and 16, 1946, inspections of the cooperative's plant disclosed that filthy milk was being used in the manufacture of cheese; that an inspection on August 27, 1946, disclosed that cheese manufactured on August 13, 14, and 15, 1946, had been delivered to the Kraft Foods Co. at Pocatello, Idaho, for introduction into interstate commerce, and that the cheese contained feather fragments, insects, fly wings, feather barbules, and insect parts; that further inspection of the cooperative's plant on August 29 and October 15 and 16, 1946, revealed that unfit milk was still being accepted and used in the production of cheese; that the inspections of October 15 and 16 disclosed fresh mouse pellets in and on the cheese press, and cheese examined disclosed rodent tooth marks; that rodent activity was noted also in the cheese storage rooms and in the refrigerating room, where open whey cream cans were being stored; that during the months of November and December 1946, the cooperative shipped 18,000 pounds of the cheese manufactured under insanitary conditions into the

State of Utah and 47,128 pounds of the cheese into the State of California; and that the Gem Valley Dairymen's Cooperative Association, Inc., was continuing and threatening to continue to produce food under insanitary conditions from filthy milk unfit for human consumption and to introduce and deliver for introduction the same food into interstate commerce.

The complaint alleged further that the cheese mentioned and that all cheese produced by the Gem Valley Dairymen's Cooperative Association, Inc., was adulterated in violation of Sections 402 (a) (3) and (4).

PRAYER OF COMPLAINT: That a temporary order issue restraining the Gem Valley Dairymen's Cooperative Association, Inc., from shipping in interstate commerce any adulterated food product, particularly cheese, butter, and other dairy products, which had been produced or stored at the Thatcher, Idaho, plant; that a temporary order issue restraining the Kraft Foods Co. from shipping in interstate commerce 72,000 pounds of cheese received from the Gem Valley Dairymen's Cooperative Association, Inc.; and that a preliminary injunction issue and a permanent injunction issue restraining the defendants as provided in the temporary restraining order.

DISPOSITION: January 21, 1947. The defendants having consented to the entry of decrees, an order was entered permanently enjoining the Gem Valley Dairymen's Cooperative Association, Inc., from introducing and causing the introduction into interstate commerce of any food products particularly cheese, butter, and other dairy products intended for human consumption, which were produced or stored at the Thatcher, Idaho, plant and which were adulterated under Sections 402 (a) (3) and (4). On the same date, an order was entered enjoining the Kraft Foods Co. from introducing or causing to be introduced into interstate commerce any cheese at that time held by it which had been manufactured or produced from milk delivered to the Gem Valley Dairymen's Cooperative Association, Inc., on June 14, August 13, 14, 15, 16, and 29, and October 15 and 16, 1946, and which was adulterated within the meaning of the Federal Food, Drug, and Cosmetic Act.

13427. Adulteration of cheese and butter. U. S. v. Joseph Di Santo (Di Santo & Co.). Plea of nolo contendere. Fine, \$600. (F. D. C. No. 24068. Sample Nos. 76926-H, 15301-K, 15302-K.)

INFORMATION FILED: February 13, 1948, District of Minnesota, against Joseph Di Santo, trading as Di Santo & Co., at Duluth, Minn.

ALLEGED SHIPMENT: On or about June 12 and July 21, 1947, from the State of Minnesota into the States of Illinois and New York.

LABEL, IN PART: "Provoloni Cheese," "Salame Style Cheese," or "Butter."

NATURE OF CHARGE: Cheese. Adulteration, Section 402 (a) (3), the product consisted in part of a filthy substance by reason of the presence of insect fragments, mites, rodent hair fragments, cat hair fragments, feather barbules, and manure fragments.

Butter. Adulteration, Section 402 (a) (3), the product consisted in part of a filthy substance by reason of the presence of insects, insect fragments, cat hair fragments, and manure fragments.

DISPOSITION: July 23, 1948. A plea of guilty having been entered, the defendant was fined \$600.

13428. Adulteration of Cheddar cheese. U. S. v. Gunder Cooperative Cheese Factory. Plea of guilty. Fine, \$400 and costs. (F. D. C. No. 24244. Sample Nos. 39564-H, 77100-H.)

INFORMATION FILED: June 8, 1948, Northern District of Iowa, against the Gunder Cooperative Cheese Factory, a corporation, Gunder, Iowa.

ALLEGED SHIPMENT: On or about April 18 and 22, 1947, from the State of Iowa into the State of Wisconsin.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in part of a filthy substance by reason of the presence of insect fragments, rodent hair, cat hair, cow hair, feather fragments, and manure fragments; and, Section 402 (a) (4), it had been prepared and packed under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: June 8, 1948. A plea of guilty having been entered, the defendant was fined \$400 and costs.

13429. Adulteration of Cheddar cheese. U. S. v. 77 Boxes * * *. (F. D. C. No. 23353. Sample No. 77485-H.)

LIBEL FILED: June 21, 1947, Northern District of Illinois.

ALLEGED SHIPMENT: On or about June 9, 1947, by the Perry Milk Products Co., Inc., from Perry, Iowa.

PRODUCT: 77 boxes, containing a total of 5,711 pounds, of Cheddar cheese at Freeport, Ill.

LABEL, IN PART: "Iowa Cheddar."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insect fragments and manure fragments and by reason of the use of filthy milk in its preparation; and, section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: May 24, 1948. Default decree of condemnation and destruction. Subsequent to the entry of the decree, the Kraft Cheese Co., Freeport, Ill., the firm in possession of the cheese when seized, petitioned the court for permission to use the product for animal feed. On June 4, 1948, the court entered an order permitting such disposition of the cheese under the supervision of the United States marshal.

EGGS

13430. Adulteration of dried whole eggs. U. S. v. Joseph J. Giordano and Horace A. Gioia (Giordano & Gioia). Pleas of guilty. Fine of \$300 against each defendant. (F. D. C. No. 15572. Sample No. 92364-F.)

INDICTMENT RETURNED: May 29, 1945, District of New Jersey, against Joseph J. Giordano and Horace A. Gioia, trading as Giordano & Gioia, Jersey City, N. J.

ALLEGED SHIPMENT: On or about March 22 and 24, 1944, from the State of New Jersey into the State of New York.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance.

DISPOSITION: February 20, 1948. Pleas of guilty having been entered, the court imposed a fine of \$300 against each defendant.

13431. Adulteration of dried whole eggs. U. S. v. Jacob J. Shevelove. Plea of not guilty. Tried to the court. Verdict of guilty. Fine, \$1,000. (F. D. C. No. 15571. Sample Nos. 82871-F, 5804-H.)

INDICTMENT RETURNED: May 29, 1945, District of New Jersey, against Jacob J. Shevelove, Newark, N. J.

ALLEGED SHIPMENT: On or about May 4 and August 30, 1944, from the State of New Jersey into the State of New York.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of decomposed eggs.

DISPOSITION: A plea of not guilty having been entered, the case came on for trial before the court without a jury. At the conclusion of the testimony, the court found the defendant guilty, but postponed sentencing until a future date. On May 7, 1948, the court imposed a fine of \$500 on each of the two counts of the indictment.

13432. Alleged conspiracy to violate the Federal Food, Drug, and Cosmetic Act with respect to shipment and delivery of dried whole eggs. U. S. v. Joseph J. Giordano, Horace A. Gioia, Benjamin Schleifer, Jacob J. Shevelove, John W. Coyne, Gioia Macaroni Co., and Cocar, Inc. Pleas of not guilty. Trial of defendants John W. Coyne and Cocar, Inc., before a jury. Verdict of not guilty. Conspiracy indictment against other defendants dismissed. (F. D. C. No. 15571. Sample Nos. 82871-F, et al.)

INDICTMENT RETURNED: May 29, 1945, District of New Jersey, against Joseph J. Giordano, Horace A. Gioia, Benjamin Schleifer, and John W. Coyne, all of Rochester, N. Y., Jacob J. Shevelove, Newark, N. J., and the Gioia Macaroni Co. and Cocar, Inc., corporations located at Rochester, N. Y.

NATURE OF CHARGE: The indictment alleged that the defendants, in January 1944, and continuously thereafter to August 31, 1944, at Jersey City, N. J., willfully, knowingly, and unlawfully conspired and agreed together to commit offenses

in violation of Sections 301 (a) and 301 (c) of the Federal Food, Drug, and Cosmetic Act, with the purpose and object of introducing into interstate commerce, delivering for shipment, shipping between the States of New Jersey and New York, and after receipt in interstate commerce, delivering and proffering for delivery for pay, a quantity of spray dried whole eggs which were adulterated under Section 402 (a) (3), in that they consisted in whole or in part of decomposed eggs. It was alleged also that in pursuance of the unlawful conspiracy and for the purpose of effecting its object, the defendants did commit the following overt acts:

1. During the month of January 1944, but prior to January 26, 1944, in Rochester, N. Y., the defendants Coyne, Giordano, and Gioia entered into an arrangement to purchase approximately 96,000 pounds of adulterated spray dried whole eggs, being offered for sale by the War Food Administration, whereby the defendants Giordano and Gioia would advance the necessary funds for the purchase of the adulterated eggs by the defendant, Cocar, Inc.

2. On January 26, 1944, Cocar, Inc., submitted offers to the War Food Administration for the purchase of various lots of dried whole eggs, comprising approximately 96,000 pounds.

3. Within the period commencing January 1, 1944, and ending February 9, 1944, the Gioia Macaroni Co. loaned to Horace Gioia a sum of money to enable the latter to advance funds for the purchase of the dried whole eggs.

4. On February 9, 1944, John Coyne and Joseph Giordano procured the issuance of two certified checks payable to John Coyne.

5. On February 9, 1944, Joseph Giordano and John Coyne made payment for the eggs to the War Food Administration, at which time John Coyne endorsed and delivered the checks to the War Food Administration.

6. On February 10, 1944, John Coyne and Joseph Giordano called at the offices of a warehouse at Jersey City, N. J., and effected a transfer of storage of that portion of the eggs which was stored at the warehouse, from the account of the War Food Administration to the account of Giordano and Gioia.

7. On February 11, 1944, John Coyne, Joseph Giordano, Horace Gioia, and Cocar, Inc., entered into a written agreement at Rochester, N. Y., which provided, among other things, for the division of the profits to be derived from the sale of the eggs.

8. On or about March 22, 1944, Joseph Giordano accompanied by Benjamin Schleifer went to a warehouse at Jersey City, N. J., and inspected a number of barrels of the eggs stored there.

9. On or about March 22 and 24, 1944, Joseph Giordano and Horace Gioia, trading as Giordano and Gioia, shipped a number of barrels of the eggs from the Jersey City warehouse to Lyons, N. Y.

10. Sometime within the period commencing April 1 and ending May 31, 1944, at Rochester, N. Y., Benjamin Schleifer approached Horace Gioia and offered to sell the eggs which had been shipped from Jersey City, N. J., to Lyons, N. Y.

11. Within the period of April 1 to May 31, 1944, Benjamin Schleifer proposed to Horace Gioia that the latter negotiate with Jacob Shevelove for the sale and disposition of a portion of the eggs which had been shipped to Lyons, N. Y.

12. Sometime in the month of June 1944, Jacob Shevelove negotiated with Horace Gioia by long distance telephone relative to the purchase of a quantity of the eggs which had been shipped to Lyons, N. Y.

13. Between July 1 and August 15, 1944, Benjamin Schleifer caused the eggs which had been shipped to Lyons, N. Y., to be examined by an expert.

14. Between July 1 and August 15, 1944, Jacob Shevelove was instrumental in securing a purchaser for 42 barrels of the eggs.

15. On July 28, 1944, Horace Gioia sold 49 barrels of the eggs which had been shipped to Lyons, N. Y.

16. On or about August 25, 1944, the Gioia Macaroni Co. accepted the sum of \$3,000 paid for the balance of the purchase price of the 49 barrels of eggs.

17. On or about May 3, 1944, Jacob Shevelove shipped 20 barrels of the dried whole eggs from Jersey City, N. J., to Bronx, N. Y.

18. On or about May 4, 1944, Jacob Shevelove shipped one barrel of the eggs from Jersey City, N. J., to Brooklyn, N. Y.

19. On August 16, 1944, Cocar, Inc., acting by its president, John Coyne, directed the transfer of storage of 47 barrels of the eggs which were stored on the warehouse premises in Jersey City, N. J., to the account of Jacob J. Shevelove.

20. On or about August 31, 1944, Jacob Shevelove caused the shipment of 25 barrels of the eggs from Jersey City, N. J., to Bronx, N. Y.

21. On or about August 9, 1944, Jacob Shevelove offered to sell nine barrels of the eggs shipped from Jersey City, N. J., to Lyons, N. Y.

22. On or about August 9, 1944, Jacob Shevelove caused 9 barrels of the eggs to be shipped from Rochester, N. Y., to Brooklyn, N. Y.

23. Sometime in the month of May 1944, John Coyne, in the presence of Joseph Giordano, offered at New York, N. Y., to sell a number of barrels of the eggs.

DISPOSITION: Pleas of not guilty were entered on behalf of the defendants. For purposes of trial, the Government's attorney made a motion that the case be confined to John W. Coyne and Cocar, Inc.; the motion was granted. On or about September 17, 1947, the case came on for trial before the court and jury, and at the conclusion of the trial on October 1, 1947, the jury returned a verdict of not guilty with respect to defendants John W. Coyne and Cocar, Inc. On December 12, 1947, the conspiracy indictment was dismissed with respect to the other defendants.

13433. Adulteration of frozen whole eggs. U. S. v. 600 Cans, etc. (F. D. C. No. 25214. Sample No. 32299-K.)

LIBEL FILED: July 26, 1948, Northern District of California.

ALLEGED SHIPMENT: On or about May 12, 1948, by the Mitchell Produce Co., from Mitchell, S. Dak.

PRODUCT: 950 30-pound cans of frozen whole eggs at San Francisco, Calif.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance.

DISPOSITION: August 6, 1948. The Mitchell Produce Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond to be brought into compliance with the law, under the supervision of the Federal Security Agency. In accordance with the decree, the product was examined by drilling each can. A total of 5 cans were sorted out as unfit and were subsequently denatured.

13434. Adulteration of frozen whole eggs. U. S. v. 148 Cans * * *. (F. D. C. No. 22436. Sample Nos. 67082-H, 67083-H.)

LIBEL FILED: January 24, 1947, Western District of Missouri.

ALLEGED SHIPMENT: On or about December 6, 1946, by the Franklin Ice Cream Co., Tonganoxie, Kans. (This was a returned shipment.)

PRODUCT: 148 30-pound cans of frozen whole eggs at Kansas City, Mo.

LABEL, IN PART: "Frozen Whole Eggs * * * Packed By Roberts Egg Products Co."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

DISPOSITION: March 3, 1947. The Franklin Ice Cream Co., claimant, having admitted the allegations of the libel, judgment of condemnation was entered with respect to the unfit portion. The product was ordered released under bond, conditioned that the unfit portion be segregated and destroyed under the supervision of the Food and Drug Administration. Of the 132 cans seized, 10 cans were denatured as unfit for use.

13435. Adulteration of shell eggs. U. S. v. 42 Cases * * *. (F. D. C. No. 24582. Sample No. 33314-K.)

LIBEL FILED: April 2, 1948, Northern District of California.

ALLEGED SHIPMENT: On or about March 13, 1948, by C. A. Larson, Salt Lake City, Utah.

PRODUCT: Eggs. 42 cases, each containing 30 dozen, at San Francisco, Calif.

LABEL, IN PART: "C Grade Fort Wayne Thirty Dozen Eggs Draper Producers Association, Inc., Draper, Utah."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance by reason of the presence of rotten eggs.

DISPOSITION: April 13, 1948. Charles A. Larson, Salt Lake City, Utah, claimant, having consented to the entry of a decree, judgment of condemnation was entered and the eggs were ordered released under bond to be candled and graded under the supervision of the Food and Drug Administration. Thirteen cases and 23 dozen were rejected and destroyed.

FISH AND SHELLFISH

13436. Adulteration of canned salmon. U. S. v. 295 Cases * * *. (F. D. C. No. 23819. Sample Nos. 36405-K, 36417-K.)

LIBEL FILED: October 20, 1947, Western District of Washington.

ALLEGED SHIPMENT: On or about August 15, 1947, by G. P. Halferty & Co., from Cordova, Alaska.

PRODUCT: 295 cases, each containing 48 unlabeled half-pound cans, of salmon at Seattle, Wash.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance.

DISPOSITION: September 1, 1948. Default decree of condemnation and destruction.

13437. Adulteration of canned sardines. U. S. v. 15 Cases * * * (and 17 other seizure actions). (F. D. C. Nos. 22853 to 22855, incl., 22868 to 22874, incl., 22943 to 22945, incl., 23000 to 23002, incl., 23008, 23030. Sample Nos. 1568-H to 1571-H, incl., 38494-H to 38496-H, incl., 38500-H, 60596-H, 61250-H to 61252-H, incl., 61337-H to 61339-H, incl., 62235-H to 69938-H, incl., 69940-H.)

LIBELS FILED: Between April 17 and May 14, 1947, Western District of Pennsylvania, Eastern District of Michigan, Northern District of Illinois, Northern District of Ohio, and Southern District of Florida.

ALLEGED SHIPMENT: Between the approximate dates of February 21 and April 12, 1947, by the Eastland Food Products Co., New Bedford, Mass.

PRODUCT: 671 cases and 75 cans of sardines, in various lots, at Pittsburgh, Pa., Detroit, Mich., Chicago, Ill., Warren, Ohio, Bradenton, Sarasota, and Lakeland, Fla., and Erie, Pa. Each case contained 100 cans, and each can contained 3 $\frac{1}{4}$ ounces.

LABEL, IN PART: "Eastco Brand Cross Pack Sardines In Tomato Sauce," or "Eastland Brand [or "Happylanding"] Smoked Sardines."

NATURE OF CHARGE: Adulteration, Section 402 (a) (5), the article was in whole or in part the product of a diseased animal.

DISPOSITION: Between May 17 and September 17, 1947. Decrees of condemnation and destruction.

13438. Adulteration of frozen sardines. U. S. v. 18 Boxes * * *. (F. D. C. No. 24137. Sample No. 8713-K.)

LIBEL FILED: December 2, 1947, Southern District of New York.

ALLEGED SHIPMENT: On or about October 23, 1947, by Juliano Bros., Cundys Harbor, Maine.

PRODUCT: 18 boxes containing a total of 2,998 pounds of frozen sardines at New York, N. Y.

NATURE OF CHARGE: Adulteration, Section 402 (a) (5), the article was in whole or in part the product of a diseased animal.

DISPOSITION: December 31, 1947. Default decree of condemnation and destruction.

13439. Adulteration of frozen tullibees. U. S. v. 30 Boxes * * * (and 1 other seizure action). (F. D. C. Nos. 24612, 24667. Sample Nos. 24579-K, 25090-K.)

LIBELS FILED: April 24, 1948, and June 4, 1948, District of Minnesota.

ALLEGED SHIPMENT: On or about February 19 and March 3, 1948, by Manitoba Fisheries, Ltd., from Winnipeg, Canada.

PRODUCT: Frozen tullibeels. 30 boxes containing approximately 4,000 pounds at Motley, Minn., and 35 boxes, each containing 113 pounds, at Duluth, Minn.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of parasitic worms.

DISPOSITION: June 9 and September 3, 1948. No claimant having appeared for the Duluth lot and the claimant for the Motley lot having consented to the entry of a decree, judgments were entered providing for the destruction of the product, unless denatured under the direction of the Food and Drug Administration and disposed of as animal feed.

13440. Adulteration of frozen whitefish. U. S. v. 125 Boxes * * *. (F. D. C. No. 24746. Sample No. 8728-K.)

LIBEL FILED: May 17, 1948, District of New Jersey; amended libel filed May 19, 1948.

ALLEGED SHIPMENT: On or about October 24, 1947, from Rouses Point, N. Y., by various shippers.

PRODUCT: 125 boxes containing approximately 15,676 pounds of frozen whitefish at Monmouth Beach, N. J.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy and decomposed substance by reason of the presence of parasitic worms and putrid fish.

DISPOSITION: June 25, 1948. Default decree of condemnation and destruction.

13441. Adulteration of frozen whiting. U. S. v. 346 Cartons * * * (and 2 other seizure actions). (F. D. C. Nos. 24585, 24586, 24606. Sample Nos. 10484-K, 18333-K, 18667-K, 19269-K.)

LIBELS FILED: April 1, 6, and 20, 1948, Middle District of Pennsylvania and Northern and Southern Districts of Ohio.

ALLEGED SHIPMENT: On or about June 23 and 27, 1947, by the Provincetown Fisheries Co., Provincetown, Mass. On March 3, 1948, 1,000 boxes of the product were reshipped from Cleveland, Ohio, to Cincinnati, Ohio.

PRODUCT: Frozen whiting. 346 cartons, each containing 40 pounds, at Scranton, Pa., 1,000 10-pound boxes at Cincinnati, Ohio, and 60 10-pound boxes at Cleveland, Ohio.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a putrid and decomposed substance. (Examination showed the presence of decomposed and putrid fish.)

DISPOSITION: April 13, May 19, and June 23, 1948. Default decrees of condemnation and destruction.

13442. Adulteration of crab meat. U. S. v. 5 Barrels, etc. (and 3 other seizure actions). (F. D. C. Nos. 25377, 25378, 25380, 25381. Sample Nos. 2053-K, 2057-K, 2058-K, 40132-K.)

LIBELS FILED: June 25 and July 2 and 6, 1948, District of Maryland and Southern District of New York.

ALLEGED SHIPMENT: On or about June 22, 29, and 30, and July 1, 1948, by the Pamlico Packing Co., from Vandemere, N. C.

PRODUCT: Crab meat. 24 barrels, each containing 100 1-pound cans, and 1 barrel containing 117 1-pound cans at Baltimore, Md., and 1 barrel containing 100 1-pound cans and 1 barrel containing 72 1-pound cans at New York, N. Y. Analysis showed that the product was contaminated with *E. coli* of fecal origin.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: July 28 and August 4 and 13, 1948. Default decrees of condemnation and destruction.

FRUITS AND VEGETABLES

CANNED AND DRIED FRUIT

13443. Adulteration of canned apples. U. S. v. 489 Cases * * *. (F. D. C. No. 25190. Sample No. 29227-K.)

LIBEL FILED: July 21, 1948, District of Colorado.

ALLEGED SHIPMENT: On or about April 22, 1947, from Wapato, Wash.

PRODUCT: 489 cases, each containing 6 6-pound cans, of apples at Denver, Colo. Examination showed that the product was undergoing chemical decomposition.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance. The article was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: August 26, 1948. Default decree of condemnation and destruction.

13444. Misbranding of canned peaches. U. S. v. 49 Cases * * *. (F. D. C. No. 25046. Sample No. 33813-K.)

LIBEL FILED: July 14, 1948, District of Colorado.

ALLEGED SHIPMENT: On or about June 25, 1948, by the Griffith Durney Co., from Oakland, Calif.

PRODUCT: 49 cases, each containing 48 15-ounce cans, of peaches at Denver, Colo.

LABEL, IN PART: "Red & White Brand Halves Yellow Cling Peaches In Heavy Syrup."

NATURE OF CHARGE: Misbranding, Section 403 (g) (2), the article purported to be and was represented as canned peaches, and its label failed to bear as required by the regulations the name of the optional packing medium present in the article. The label bore the statement "In Heavy Syrup," whereas the article was packed in sirup designated as "light sirup" in the regulations.

DISPOSITION: August 26, 1948. Default decree of condemnation. The product was ordered delivered to charitable institutions.

13445. Misbranding of canned pears. U. S. v. 385 Cases * * *. (F. D. C. No. 24364. Sample No. 18034-K.)

LIBEL FILED: March 5, 1948, Southern District of Indiana.

ALLEGED SHIPMENT: On or about October 16, 1947, by Wenatchee Foods, Inc., from Wenatchee, Wash.

PRODUCT: 385 cases, each containing 6 6-pound, 9-ounce cans, of pears at Indianapolis, Ind.

LABEL, IN PART: "J P M Brand Northwest Bartlett Pears Halves."

NATURE OF CHARGE: Misbranding, Section 403 (h) (1), the article fell below the standard of quality for canned pears since it failed to meet the test for tenderness; all units were not untrimmed or so trimmed as to preserve normal shape, and more than 10 percent of the units were broken; and the label failed to bear a statement that the article fell below such standard.

DISPOSITION: April 9, 1948. J. P. Michael Co., Indianapolis, Ind., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond for relabeling under the supervision of the Federal Security Agency.

13446. Adulteration of dried apricots. U. S. v. 504 Cases * * *. (F. D. C. No. 24621. Sample Nos. 43405-K, 43406-K, 43411-K, 43412-K.)

LIBEL FILED: May 6, 1948, Northern District of Illinois.

ALLEGED SHIPMENT: On or about January 14, 1948, by the California Prune & Apricot Growers Assn., from San Jose, Calif.

PRODUCT: 504 25-pound cases of dried apricots at Chicago, Ill.

LABEL, IN PART: "King Mountain Brand California Apricots."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insects.

DISPOSITION: June 29, 1948. Default decree of condemnation. The product was ordered delivered to a public institution, for use as animal feed.

13447. Adulteration of prunes. U. S. v. 16 Boxes * * *. (F. D. C. No. 25115. Sample No. 5401-K.)

LIBEL FILED: July 26, 1948, District of Massachusetts.

ALLEGED SHIPMENT: On or about February 25, 1948, from Providence, R. I.

PRODUCT: 16 25-pound boxes of prunes at Lowell, Mass.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insects. The article was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: August 31, 1948. Default decree of condemnation and destruction.

13448. Adulteration of raisins. U. S. v. 50 Boxes * * *. (F. D. C. No. 25026. Sample No. 6386-K.)

LIBEL FILED: July 9, 1948, Western District of Pennsylvania.

ALLEGED SHIPMENT: On or about January 19, 1946, from Biola, Calif.

PRODUCT: 50 30-pound boxes of raisins at Pittsburgh, Pa.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of insects. The article was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: August 10, 1948. Default decree of condemnation and destruction.

13449. Adulteration of raisins. U. S. v. 30 Cartons. * * *. (F. D. C. No. 25229. Sample No. 22943-K.)

LIBEL FILED: On or about July 28, 1948, Middle District of Alabama.

ALLEGED SHIPMENT: On or about June 16, 1948, from New Orleans, La.

PRODUCT: 30 25-pound cartons of raisins at Montgomery, Ala.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of insects. (The product was adulterated while held for sale after shipment in interstate commerce.)

DISPOSITION: August 30, 1948. Default decree of condemnation. The product was ordered delivered to a State institution, for use as animal feed.

FRESH AND FROZEN FRUIT

13450. Adulteration of blueberries. U. S. v. 8 Crates * * * (and 1 other seizure action). (F. D. C. Nos. 25519, 25520. Sample Nos. 5052-K, 5053-K.)

LIBELS FILED: July 30, 1948, District of Massachusetts.

ALLEGED SHIPMENT: On or about July 26 and 27, 1948, by Kostick Bros., from Hazleton, Pa.

PRODUCT: 14 crates, each containing 24 quart baskets, of blueberries at Boston, Mass.

LABEL, IN PART: "Bluebird Picked Blueberries."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance. (Examination showed that the product contained maggots.)

DISPOSITION: August 31, 1948. Default decrees of condemnation and destruction.

13451. Adulteration of blueberries. U. S. v. 3 Crates, etc. (F. D. C. No. 25523. Sample No. 6714-K.)

LIBEL FILED: August 3, 1948, Western District of New York.

ALLEGED SHIPMENT: On or about August 2, 1948, by Mrs. John Shimko, from Tobyhanna, Pa.

PRODUCT: Blueberries. 3 crates, each containing 24 quart baskets, and 16 quart baskets at Buffalo, N. Y.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance. (Examination showed that the product was infested with maggots.)

DISPOSITION: September 7, 1948. Default decree of condemnation and destruction.

13452. Adulteration of huckleberries. U. S. v. 11 Crates * * *. (F. D. C. No. 25534. Sample No. 8936-K.)

LIBEL FILED: August 3, 1948, Southern District of New York.

ALLEGED SHIPMENT: On or about July 29, 1948, by George Grover, from Pemberton, N. J.

PRODUCT: 11 crates, each containing approximately 24 quarts, of huckleberries at New York, N. Y.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy, putrid, or decomposed vegetable substance. (Examination showed that the product was infested with maggots.)

DISPOSITION: August 4, 1948. Default decree of condemnation and destruction.

13453. Adulteration of huckleberries. U. S. v. 6 Crates * * *. (F. D. C. No. 25542. Sample No. 8939-K.)

LIBEL FILED: August 2, 1948, Southern District of New York.

ALLEGED SHIPMENT: On or about August 1, 1948, by P. Sasso, from Hammonton, N. J.

PRODUCT: 6 crates, each containing 24 quarts, of huckleberries at New York, N. Y.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy, putrid, or decomposed vegetable substance. (Examination showed that the product was infested with maggots.)

DISPOSITION: August 5, 1948. Default decree of condemnation and destruction.

13454. Misbranding of frozen strawberries. U. S. v. 29 Cases, etc. (F. D. C. No. 22297. Sample Nos. 90812-H, 90822-H.)

LIBEL FILED: February 20, 1947, District of New Jersey.

ALLEGED SHIPMENT: On or about June 18, 1946, by Chickamauga Producers, Inc., from Dayton, Tenn.

PRODUCT: Frozen strawberries. 29 cases, each containing 36 cartons, and 25 cases, each containing 24 cartons, at Newark, N. J.

LABEL, IN PART: "Quick Frozen Strawberries In Heavy Syrup * * * Net Weight 1 lb. [or "2 Pounds"]."

NATURE OF CHARGE: Misbranding, Section 403 (e) (2), the product failed to bear a label containing an accurate statement of the quantity of the contents. (Examination showed that the product was short-weight.)

DISPOSITION: May 20, 1947. Chickamauga Producers, Inc., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond to be relabeled under the supervision of the Food and Drug Administration.

MISCELLANEOUS FRUIT PRODUCTS*

13455. Adulteration of apple pomace. U. S. v. 1,638 Bags * * *. (F. D. C. No. 24967. Sample Nos. 22311-K, 22312-K.)

LIBEL FILED: June 30, 1948, Eastern District of Louisiana.

ALLEGED SHIPMENT: On or about October 13, 1947, and February 18, 1948, from Holley, N. Y.

PRODUCT: 1,638 50-pound bags of apple pomace at New Orleans, La. Examination showed that the product contained insect excreta and webbing.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance. (The article was adulterated while held for sale after shipment in interstate commerce.)

*See also Nos. 13351-13354, 13356-13358.

DISPOSITION: August 11, 1948. Default decree of condemnation. The product was ordered sold, conditioned that it be denatured and manufactured into animal feed, under the supervision of the Federal Security Agency.

13456. Adulteration of apple pomace. U. S. v. 350 Bags * * *. (F. D. C. No. 24970. Sample No. 22299-K.)

LABEL FILED: June 25, 1948, Eastern District of Louisiana.

ALLEGED SHIPMENT: On or about November 29, 1945, from Sebastopol, Calif.

PRODUCT: 350 76-pound bags of apple pomace at New Orleans, La., in possession of Charles Dennery, Inc.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance; and, Section 402 (a) (4), it had been held under insanitary conditions whereby it may have become contaminated with filth. (The article was adulterated while held for sale after shipment in interstate commerce. It was stored in a moth-infested store room and contained insect excreta and webbing.)

DISPOSITION: August 11, 1948. Default decree of condemnation. The product was ordered sold, conditioned that it be denatured and manufactured into animal feed, under the supervision of the Federal Security Agency.

13457. Misbranding of grape jelly and plum jelly. U. S. v. Cobbs Fruit & Preserving Co. (Seminole Fruit & Preserving Co.). Plea of nolo contendere. Fine, \$2,500. (F. D. C. No. 23595. Sample Nos. 77202-H, 77206-H, 77208-H, 77211-H, 77245-H, 77353-H, 77354-H.)

INFORMATION FILED: October 31, 1947, Southern District of Florida, against the Cobbs Fruit & Preserving Co., a corporation, trading as the Seminole Fruit & Preserving Co., Miami, Fla.

ALLEGED SHIPMENT: On or about December 17 and 21, 1946, from the State of Florida into the States of Wisconsin and Minnesota.

LABEL, IN PART: "Cobbs Pure Tropical Fruit Delicacies Grape [or "Plum"] Jelly * * * Net Wt. 1 Lb."

NATURE OF CHARGE: Misbranding, Section 403 (g) (1), the products failed to conform to the definition and standard of identity for grape and plum jellies. The definition and standard provides that grape and plum jellies are concentrated by heat to such point that the soluble-solids content of the finished jelly is not less than 65 percent, whereas the soluble-solids content of the products was less than 65 percent.

Further misbranding (2 lots of plum jelly), Section 403 (e) (2), the product failed to bear a label containing an accurate statement of the quantity of the contents, since the jars contained less than the labeled 1 pound net weight.

DISPOSITION: December 12, 1947. A plea of nolo contendere having been entered, the defendant was fined \$2,500.

13458. Adulteration and misbranding of grape jelly and plum jelly. U. S. v. 106 Cases, etc. (and 1 other seizure action). (F. D. C. Nos. 22695, 22696. Sample Nos. 76804-H, 76805-H, 77353-H, 77354-H.)

LABELS FILED: March 19 and 27, 1947, District of Minnesota.

ALLEGED SHIPMENT: On or about December 17, 1946, by the Seminole Fruit & Preserving Co., from Little River, Fla.

PRODUCT: 106 cases of grape jelly and 107 cases of plum jelly at Rochester, Minn., and 61 cases of grape jelly and 101 cases of plum jelly at Thief River Falls, Minn. Each case contained 24 1-pound jars.

LABEL, IN PART: "Cobbs Pure Tropical Fruit Delicacies Grape [or "Plum"] Jelly * * * Cobbs Fruit & Preserving Company Little River, Florida."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), products of less than 65 percent soluble-solids content had been substituted for plum jelly and grape jelly.

Misbranding, Section 403 (g) (1), the products failed to conform to the definition and standard of identity for grape and plum jelly, since they had not been concentrated by heat to such point that the soluble-solids content was not less than 65 percent, as required by the regulations,

DISPOSITION: June 27 and July 30, 1947. The Cobbs Fruit & Preserving Co., claimant, having consented to the entry of decrees, judgments of condemnation were entered and the products were ordered released under bond to be reconditioned and relabeled under the supervision of the Food and Drug Administration. Eighty-three pounds of the grape jelly and 200 pounds of the plum jelly were destroyed; the remainder was reprocessed, repacked, and relabeled. [Editor's note: In addition to being misbranded, the products were in part decomposed.]

13459. Adulteration of strawberry preserves. U. S. v. 974 Cases * * *.
(F. D. C. No. 24026. Sample No. 24459-K.)

LIBEL FILED: December 18, 1947, Eastern District of Louisiana.

ALLEGED SHIPMENT: On or about July 23 and 25, 1947, by Colonial Cannery, Inc., from Independence, La., and returned to Independence from Minneapolis, Minn., on or about December 9, 1947.

PRODUCT: 974 cases, each containing 24 1-pound jars, of strawberry preserves at Independence, La.

LABEL, IN PART: "Colonial Pure Strawberry Preserves."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance. (Examination showed that the product contained mold.)

DISPOSITION: February 6, 1948. Colonial Cannery, Inc., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond to be brought into compliance with the law, under the supervision of the Food and Drug Administration. Of the 943 cases seized, approximately 66 cases were destroyed.

13460. Adulteration of imitation raspberry fruit spread. U. S. v. 19 Cans * * *.
(F. D. C. No. 25023. Sample No. 22933-K.)

LIBEL FILED: July 9, 1948, Northern District of Alabama.

ALLEGED SHIPMENT: On or about December 2, 1946, from Louisville, Ky.

PRODUCT: 19 32-pound cans of imitation raspberry fruit spread at Birmingham, Ala.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of mold. (The article was adulterated while held for sale after shipment in interstate commerce.)

DISPOSITION: August 11, 1948. Default decree of condemnation and destruction.

VEGETABLES

13461. Adulteration and misbranding of canned asparagus. U. S. v. 50 Cases * * * (and 4 other seizure actions). (F. D. C. Nos. 22264, 22266 to 22268, incl., 24845. Sample Nos. 62997-H, 36654-K.)

LIBELS FILED: February 4 and 6, 1947, and May 25, 1948, District of New Jersey and Western District of Washington.

ALLEGED SHIPMENT: On or about August 14, 1946, and April 7, 1948, by Parrott & Co., from Alameda and San Francisco, Calif.

PRODUCT: Asparagus. 174 cases, each containing 24 1-pound, 2-ounce cans, at Paterson, N. J., and 60 cases, each containing 6 6-pound, 5-ounce cans, at Seattle, Wash.

LABEL, IN PART: "Exposition Brand All Green and White Cuts—Tips Removed Asparagus."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), tough, fibrous, and inedible parts of asparagus had been substituted for asparagus cuts, tips removed, which the product was represented to be.

Misbranding, Section 403 (g) (1), the product fell below the definition and standard of identity for asparagus cuts, tips removed. The regulations provide that asparagus cuts, tips removed, are the edible, succulent portion of sprouts of the asparagus plant from which the tip has been removed, cut in pieces, whereas the article consisted of tough, fibrous, and inedible parts of the asparagus plant.

DISPOSITION: March 10, 1947, and July 30, 1948. Default decrees of condemnation. The Paterson lots were ordered destroyed, and the Seattle lot was ordered delivered to a Federal institution.

13462. Adulteration of canned beans with pork. U. S. v. 148 Cases * * *.
(F. D. C. No. 25173. Sample No. 22937-K.)

LIBEL FILED: July 16, 1948, Northern District of Alabama.

ALLEGED SHIPMENT: On or about January 8, 1947, from Swedesboro, N. J.

PRODUCT: 148 cases, each containing 48 1-pound cans, of beans with pork at Birmingham, Ala.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance. (The article was adulterated while held for sale after shipment in interstate commerce.)

DISPOSITION: August 16, 1948. Default decree of condemnation and destruction.

13463. Misbranding of canned cut green beans. U. S. v. 3,150 cases * * *.
(F. D. C. No. 24642. Sample No. 44003-K.)

LIBEL FILED: May 20, 1948, Southern District of Ohio.

ALLEGED SHIPMENT: On or about March 9, 1948, by the Fuller Canneries Co., from South Dayton, N. Y.

PRODUCT: 3,150 cases, each containing 24 1-pound, 3-ounce cans, of cut green beans at Cincinnati, Ohio. The product was cut into pieces less than $\frac{3}{4}$ inch in length, which size is designated as short cuts in the standard.

LABEL, IN PART: "Ontario Brand Cut Green Beans."

NATURE OF CHARGE: Misbranding, Section 403 (g) (1), the product purported to be and was represented as canned cut green beans, a food for which a definition and standard of identity has been prescribed by the regulations; and its label failed to bear, as required by the regulations, the name of the optional ingredients present in the food, since the label bore the statement "Cut Green Beans," whereas the article was "short cut green beans." Further misbranding, Section 403 (a), the vignette borne on the label of a dish of cut green beans of normal length was misleading.

DISPOSITION: July 14, 1948. The Fuller Canneries Co., claimant, having admitted the allegations of the libel, judgment of condemnation was entered, and the product was ordered released under bond to be relabeled under the supervision of the Food and Drug Administration.

13464. Misbranding of canned cut green beans. U. S. v. 19½ cases, etc. (F. D. C. No. 24753. Sample Nos. 37257-K, 37258-K.)

LIBEL FILED: May 7, 1948, Western District of Washington.

ALLEGED SHIPMENT: On or about June 3, 1947, by Seattle Association of Credit Men, from Albany, Oreg.

PRODUCT: 175½ cases, each containing 6 cans, of green beans at Seattle, Wash.

LABEL, IN PART: (Portion) "Moraga Brand Cut Green Beans, Contents 6 Lbs. 5 Ozs. * * * Distributed by J. L. Henderson & Co., San Francisco."

NATURE OF CHARGE: Misbranding, Section 403 (h) (1), the product fell below the standard of quality for canned cut green beans, and its label failed to bear a statement that it fell below such standard. (The product contained an excessive amount of tough strings and fibrous material.)

DISPOSITION: July 8, 1948. The Wanamaker Supply Co., Seattle, Wash., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond to be relabeled under the supervision of the Food and Drug Administration.

13465. Adulteration of canned diced beets. U. S. v. 58 Cases * * *. (F. D. C. No. 25233. Sample No. 22936-K.)

LIBEL FILED: July 30, 1948, Northern District of Alabama.

ALLEGED SHIPMENT: On or about June 20, 1946, from Raymondville, Tex.

PRODUCT: 58 cases, each containing 24 1-pound, 4-ounce cans, of diced beets at Birmingham, Ala.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance. The product was adulterated while held for sale after shipment in interstate commerce. (Examination showed that the product was undergoing chemical decomposition.)

DISPOSITION: August 31, 1948. Default decree of condemnation and destruction.

13466. Adulteration of frozen broccoli. U. S. v. 500 Cases * * *. (F. D. C. No. 22284. Sample No. 3980-H.)

LIBEL FILED: February 17, 1947, District of New Jersey.

ALLEGED SHIPMENT: On or about December 11, 1946, by the R. D. Bodle Co., from Seattle, Wash.

PRODUCT: 500 cases, each containing 24 10-ounce packages, of frozen broccoli at Camden, N. J.

LABEL, IN PART: "Penguin Brand Frozen Fresh Green Broccoli * * * Packed by Washington Frosted Foods, Inc., Seattle, Wash."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a filthy substance by reason of the presence of aphids, thrips, larvae, and insect fragments.

DISPOSITION: June 30, 1947. The R. D. Bodle Co., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond for segregation of the fit from the unfit portion, under the supervision of the Food and Drug Administration. Of the seized goods, 24½ cases and 2 10-ounce packages were released and the remainder was destroyed.

13467. Adulteration of canned corn. U. S. v. 141 Cases, etc. (F. D. C. No. 25113. Sample Nos. 2725-K, 2726-K.)

LIBEL FILED: July 22, 1948, District of Columbia.

ALLEGED SHIPMENT: On or about May 25, 1948, by the Monocacy Valley Canning Co., from Frederick, Md.

PRODUCT: 190 cases, each containing 24 1-pound, 4-ounce cans, of corn at Washington, D. C.

LABEL, IN PART: "Monocacy Valley Brand Cream Style Golden Sweet Corn," or "Indian Spring Brand Cream Style White Sugar Corn."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of worms.

DISPOSITION: August 18, 1948. Default decree of condemnation. The product was ordered released for the use of the National Zoological Park.

13468. Adulteration of canned corn. U. S. v. 54 Cases * * *. (F. D. C. No. 24639. Sample No. 28039-K.)

LIBEL FILED: May 26, 1948, District of Colorado.

ALLEGED SHIPMENT: On or about April 26, 1948, by the Box Elder Packing Corp., from Brigham City, Utah.

PRODUCT: 54 cases, each containing 24 cans, of corn at Denver, Colo.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

DISPOSITION: July 12, 1948. The shipper having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered destroyed.

TOMATOES AND TOMATO PRODUCTS

13469. Adulteration and misbranding of canned tomatoes. U. S. v. Clarence T. Smith (Smith Canning Co.). Plea of nolo contendere. Fine, \$1,200. (F. D. C. No. 23220. Sample Nos. 24997-H, 40504-H, 49195-H, 51772-H.)

INFORMATION FILED: September 9, 1947, Western District of Arkansas, against Clarence T. Smith, trading as the Smith Canning Co., Fayetteville, Ark.

ALLEGED SHIPMENT: On or about August 3 and 16 and September 2 and 16, 1946, from the State of Arkansas into the States of Texas, Missouri, and Minnesota.

LABEL, IN PART: (Portion) "Big Smith Brand * * * Tomatoes Distributed by Smith Canning Company Fayetteville, Arkansas." The remainder of the product was shipped unlabeled and invoiced as "Tomatoes."

NATURE OF CHARGE: One shipment, unlabeled. Misbranding, Sections 403 (e) (1) and (2), the product failed to bear a label containing the name and place of business of the manufacturer, packer, or distributor, and an accurate statement of the quantity of the contents; and, Section 403 (h) (1), the product was substandard in quality since its strength and redness of color was less than required by the regulations, and since it contained peel and blemishes in excess of the maximum permitted by the standard.

One shipment, labeled. Misbranding, Section 403 (e) (2), the product failed to bear a label containing an accurate statement of the quantity of the contents, since the cans contained less than "1 lb. 3 oz.," the weight declared on the label; Section 403 (h) (1), the product fell below the standard of quality for canned tomatoes because of low drained weight, as determined by the sieve test provided by the regulations; and, Section 403 (h) (2), it fell below the standard of fill of container prescribed by the regulations, since the fill was less than 90 percent of the capacity of the container.

One shipment, labeled. Adulteration, Section 402 (b) (2), a product containing added water had been substituted for canned tomatoes. Misbranding, Section 403 (g) (1), the product failed to conform to the definition and standard of identity for canned tomatoes since it contained added water, which is not permitted as an ingredient of canned tomatoes.

One shipment, unlabeled. Adulteration, Section 402 (b) (2), a product containing added water had been substituted for canned tomatoes. Misbranding, Section 403 (g) (1), the product failed to conform to the definition and standard of identity because of the presence of added water. Further misbranding, Section 403 (h) (1), the product fell below the standard of quality for canned tomatoes because of low drained weight, as determined by the sieve test; the strength and redness of color was less than required by the regulations; and the product contained peel in excess of the maximum permitted by the regulations.

DISPOSITION: November 17, 1947. A plea of nolo contendere having been entered, a fine of \$1,200 was imposed.

13470. Adulteration and misbranding of canned tomatoes. U. S. v. Samuel G. Chamberlain (Chamberlain Canning Co.). Plea of nolo contendere. Fine, \$1,000, plus costs. (F. D. C. No. 24079. Sample Nos. 14808-K, 20206-K.)

INFORMATION FILED: February 3, 1948, Western District of Missouri, against Samuel G. Chamberlain, trading as the Chamberlain Canning Co., Anderson, Mo.

ALLEGED SHIPMENT: On or about August 12 and 23, 1947, from the State of Missouri into the States of Nebraska and Illinois.

LABEL, IN PART: "Cornhusker Brand Tomatoes Distributed by H. P. Lau Co. Lincoln * * * Fremont * * * Fairbury, Nebr."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), a product containing added water had been substituted for canned tomatoes.

Misbranding, Section 403 (g) (1), the product failed to conform to the definition and standard of identity for canned tomatoes since it contained added water, which is not permitted as an ingredient of canned tomatoes.

DISPOSITION: June 11, 1948. A plea of nolo contendere having been entered, the defendant was fined \$1,000, together with costs.

13471. Adulteration of tomato catsup. U. S. v. 214 Cases * * *. (F. D. C. No. 24760. Sample No. 19722-K.)

LIBEL FILED: May 8, 1948, Eastern District of Kentucky.

ALLEGED SHIPMENT: On or about September 13, 1947, by the Fettig Canning Corp., from Elwood, Ind.

PRODUCT: 214 cases, each containing 24 14-ounce bottles, of tomato catsup at Covington, Ky.

LABEL, IN PART: "Mary's Choice Tomato Catsup."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of decomposed tomato material.

DISPOSITION: June 2, 1948. Default decree of condemnation and destruction.

13472. Adulteration of tomato puree and tomato catsup. U. S. v. 400 Cases * * *
(and 24 other seizure actions). (F. D. C. Nos. 21970, 21971, 22170, 22191, 22194, 22210, 22216, 22217, 22237, 22240, 22241, 22313 to 22315, incl., 22415, 22424, 22438, 22458 to 22461, incl., 22479, 22495, 22520, 22653. Sample Nos. 2096-H, 2097-H, 38292-H, 57259-H, 57262-H, 57263-H, 57265-H, 59999-H, 60000-H, 60948-H, 60950-H, 60955-H, 61301-H, 61303-H, 61305-H, 61306-H, 64902-H, 64903-H, 66011-H, 66012-H, 66027-H, 67473-H, 90513-H, 90752-H.)

LIBELS FILED: Between December 12, 1946, and February 26, 1947, Eastern and Western Districts of Pennsylvania, District of Connecticut, District of Massachusetts, District of Columbia, District of Maryland, Northern and Southern Districts of Ohio, District of Kansas, and Northern District of Illinois.

ALLEGED SHIPMENT: Between the approximate dates of October 30 and December 20, 1946, by the Sardik Food Products Corp., from Lockport and New York, N. Y., and Shirley, Ind.

PRODUCT: Tomato puree. 1,217 cases at Philadelphia, 1,339 cases at Pittsburgh, 1,347 cases at McKeesport, 398 cases at McKees Rocks, and 231 cases at Sharon, Pa.; 496 cases at Hartford, Conn.; 638 cases at Worcester, 409 cases at Springfield, and 147 cases at Holyoke, Mass.; 1,961 cases at Washington, D. C.; 303 cases at Baltimore, Md.; 1,496 cases at Kansas City, Kans.; and 470 cases at Youngstown, and 129 cases at Steubenville, Ohio. Each case contained 6 6-pound, 9-ounce cans.

Tomato catsup. 1,045 cases at Chicago, Ill. Each case contained 6 7-pound cans.

LABEL, IN PART: "Sardik Tomato Puree," "Pomco Brand Tomato Puree," "Tux Brand Fancy Tomato Puree * * * Distributed by George B. Vrooman, Inc., Philadelphia, Penna.," "Elizabeth Park Brand Fancy Tomato Puree * * * Distributed by Arthur S. Vogel, Hartford, Conn.," "Herald Brand Fancy Tomato Puree * * * Distributors Githens, Rexsamer & Company, Philadelphia, Pa.," or "Savoy Tomato Catsup."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the products consisted in whole or in part of a decomposed substance by reason of the presence of decomposed tomato material.

DISPOSITION: Between February 11 and July 11, 1947. The Sardik Food Products Corp., claimant for the 200-case and the 796-case lots at Washington, D. C., the 994-case lot at Pittsburgh, Pa., the McKees Rocks and the McKeesport lots, and the Chicago lot, having consented to the entry of decrees, judgments of condemnation were entered and the products were ordered released under bond, conditioned that the unfit portion be segregated and destroyed under the supervision of the Food and Drug Administration. Of these lots, 3,454 cases of tomato puree and 1,056 cases of tomato catsup were seized; 2,598 cases and 3 cans of the tomato puree and 423 cases of the tomato catsup were destroyed. No claimant having appeared for the remaining lots, judgments of condemnation were entered. The Hartford, Conn., and the Baltimore, Md., lots were ordered delivered to institutions, for use as animal feed, and the other lots were ordered destroyed.

13473. Adulteration of tomato puree. U. S. v. 46 Cases * * *. (F. D. C. No. 24435. Sample No. 20872-K.)

LIBEL FILED: On or about February 14, 1948, Western District of Missouri.

ALLEGED SHIPMENT: On or about November 14, 1947, by the Colo Flavor Products Co., Inc., from Palisade, Colo.

PRODUCT: 46 cases, each containing 6 6-pound, 8-ounce cans, of tomato puree at St. Joseph, Mo.

LABEL, IN PART: "Colo-Flavor Brand Tomato Puree."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a filthy substance by reason of the presence of fly eggs and maggots; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

DISPOSITION: March 29, 1948. Default decree of destruction.

SPICES, FLAVORS, AND SEASONING MATERIALS

13474. Adulteration of black pepper. U. S. v. Belmont Food Distributors, a partnership, and Irving G. Feinberg and Miriam C. Feinberg. Pleas of guilty. Fine, \$100, plus costs. (F. D. C. No. 22000. Sample No. 35586-H.)

INFORMATION FILED: July 29, 1947, Northern District of Illinois, against Belmont Food Distributors, a partnership, Chicago, Ill., and Irving G. Feinberg and Miriam C. Feinberg, partners.

ALLEGED SHIPMENT: On or about September 12, 1946, from the State of Illinois into the State of Tennessee.

LABEL, IN PART: "Damore Brand Pure Black Pepper 10¢ Packed By Damore Spice Company Nevada 3502 Chicago 24, Illinois."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), wheat flour, ground soya bean hulls, and cottonseed hulls had been substituted in part for black pepper; and, Section 402 (b) (4), wheat flour, ground soya bean hulls, and cottonseed hulls had been added to the product and mixed and packed with it so as to increase its bulk and weight and reduce its quality and strength.

DISPOSITION: November 25, 1947. Pleas of guilty having been entered, a fine of \$100, together with costs, was imposed against the defendants jointly.

13475. Adulteration and misbranding of black pepper. U. S. v. Albert B. Koblack. Plea of guilty. Fine, \$500. (F. D. C. No. 23224. Sample Nos. 42722-H to 42724-H, incl., 42727-H to 42729-H, incl., 42739-H, 90501-H.)

INFORMATION FILED: October 22, 1947, Eastern District of Pennsylvania, against Albert B. Koblack, Philadelphia, Pa.

ALLEGED SHIPMENT: On or about October 15, 16, 19, 23, 25, 26, 29, and 30, 1946, from the State of Pennsylvania into the State of Maryland.

LABEL, IN PART: "Pure Black Pepper $\frac{3}{4}$ oz. or over Packed For Anchor Dist. Co. Philadelphia, Pa."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), a mixture of buckwheat hulls, buckwheat middlings, salt, and flavor, with little or no black pepper, in a portion of the product, and a mixture of foreign materials, including starch and salt, with little or no black pepper, in the remainder of the product, had been substituted for black pepper.

Misbranding, Section 403 (a), the label statements "Pure Black Pepper" and "Black Pepper" were false and misleading, since they represented and suggested that the article consisted of black pepper, whereas it did not consist of black pepper.

DISPOSITION: January 12, 1948. A plea of guilty having been entered, the court imposed a fine of \$500.

13476. Adulteration and misbranding of black pepper. U. S. v. 63 Cards * * * (and 1 other seizure action). (F. D. C. Nos. 21977, 22174. Sample Nos. 2085-H, 64653-H.)

LIBELS FILED: December 17, 1946, and January 10, 1947, District of Columbia and District of Connecticut.

ALLEGED SHIPMENT: On or about November 5 and 12, 1946, by the Comegys Food Co., from Philadelphia, Pa.

PRODUCT: 63 cards and 33 cards of black pepper at Washington, D. C., and Bridgeport, Conn., respectively. Each card contained 12 $\frac{3}{4}$ -ounce envelopes.

LABEL, IN PART: (Card) "Comegys * * * A Compound of Black Pepper"; (envelope) "Ingredients Contains pepper, buckwheat, farina, wheat flour, salt, oil of cubeb, oleoresin of capsicum, Cereal Base. * * * A Compound of Black Pepper." The words "Black Pepper" were printed in large letters, and the words "A Compound of" and the ingredient statement were printed in very small type.

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), a product containing foreign materials including starch and salt, but little, if any, pepper, had been substituted for black pepper.

Misbranding, Section 403 (a), the label statement "Black Pepper" was false and misleading.

DISPOSITION: February 20 and 21, 1947. Default decrees of condemnation and destruction,

13477. Adulteration of dried chili peppers. U. S. v. 46 Bags * * *. (F. D. C. No. 25036. Sample No. 31740-K.)

LIBEL FILED: July 13, 1948, Southern District of California.

ALLEGED SHIPMENT: On or about January 9, 1947, from Mexico.

PRODUCT: 46 115-pound bags of dried chili peppers at Wilmington, Calif.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of filthy and decomposed substances by reason of the presence of wormy and moldy chili peppers. The article was adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: August 16, 1948. Default decree of condemnation and destruction.

13478. Adulteration and misbranding of oil of lemon terpeneless. U. S. v. 5 bottles * * *. (F. D. C. No. 24741. Sample No. 13216-K.)

LIBEL FILED: On or about May 3, 1948, District of New Jersey.

ALLEGED SHIPMENT: On or about March 9, 1948, by D. W. Hutchinson Co., Inc., from New York, N. Y.

PRODUCT: 5 1-pound bottles of oil of lemon terpeneless at Camden, N. J.

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), an oil other than an oil of lemon terpeneless had been substituted in whole or in part for oil of lemon terpeneless.

Misbranding, Section 403 (a), the name "oil of lemon terpeneless" was false and misleading. (Analysis showed that terpenes were present in the article.)

DISPOSITION: June 7, 1948. Default decree of condemnation and destruction.

VITAMIN, MINERAL, AND OTHER PRODUCTS OF SPECIAL DIETARY SIGNIFICANCE*

13479. Adulteration and misbranding of Dicalcium Phosphate Capsules, Dicalco Capsules, Min-Rals Tablets, and Duomins Vitamin and Mineral Perles. U. S. v. National Drug Laboratories, Inc., and Jules Press. Pleas of guilty. Fine of \$2,000 and costs against corporation and \$250 and costs against individual. (F. D. C. No. 23219. Sample Nos. 38509-H, 38513-H, 67282-H, 67470-H.)

INFORMATION FILED: October 6, 1947, Northern District of Illinois, against National Drug Laboratories, Inc., Chicago, Ill., and Jules Press, president of the corporation.

ALLEGED SHIPMENT: On or about March 25, August 1 and 31, and September 5, 1946, from the State of Illinois into the States of Indiana, Nebraska, and Missouri.

NATURE OF CHARGE: Dicalcium Phosphate Capsules. Adulteration, Section 402 (b) (1), a valuable constituent of the article, vitamin D, had been in part omitted and abstracted therefrom. Misbranding, Section 403 (a), the label statement "Each capsule contains * * * at least 350 Units of Vitamin D" was false and misleading.

Dicalco Capsules. Adulteration, Section 402 (b) (1), a valuable constituent of the article, vitamin D, had been in part omitted and abstracted therefrom. Misbranding, Section 403 (a), the label statement "Each capsule contains * * * at least 350 Units of Vitamin D" was false and misleading.

Min-Rals Tablets. Adulteration, Section 402 (b) (1), valuable constituents of the article, iron, calcium, phosphorus, and iodine, had been in part omitted and abstracted from the article. Misbranding, Section 403 (a), the label statements "in Each Tablet Mg's Iron * * * 56.1 Calcium & Phosphorus * * * 187.1 Iodine * * * .15" were false and misleading.

Duomins Vitamin and Mineral Perles. Adulteration, Section 402 (b) (1), valuable constituents of the article, iron, calcium, phosphorus, and iodine, had been in part omitted and abstracted from the article. Misbranding, Section 403 (a), the label statements "Each Mineral Perle Contains: 1. Iron * * * 56.1 Mg. 2. Calcium * * * 187.0 Mg. 3. Phosphorus * * * 42.6 Mg. 4. Iodine * * * .15 Mg." were false and misleading.

The information alleged also that another product, Diet Tablets, was adulterated and misbranded under the provisions of the law applicable to drugs, as reported in notices of judgment on drugs and devices, No. 2311.

*See also No. 13404.

DISPOSITION: January 29, 1948. Pleas of guilty having been entered, the court imposed fines of \$2,000 and costs against the corporation and \$250 and costs against the individual.

13480. Adulteration of vitamin tablets. U. S. v. Physicians Drug & Supply Co., a corporation, and Israel Steinberg. Plea of nolo contendere by corporation; fine \$1,500. Israel Steinberg found not guilty. (F. D. C. No. 20199. Sample Nos. 5106-H, 5109-H.)

INFORMATION FILED: December 3, 1946, Eastern District of Pennsylvania, against the Physicians Drug & Supply Co., a corporation, and Israel Steinberg, secretary-treasurer.

ALLEGED SHIPMENT: On or about September 22, 1945, from the State of Pennsylvania into the State of New Jersey.

LABEL, IN PART: "Vitamets A-B₁-C-D-G," or "Tablets Sugar-Coated, Red Vitamin B Complex."

NATURE OF CHARGE: Adulteration, Section 402 (b) (1), valuable constituents of the Vitamets tablets, thiamine hydrochloride and ascorbic acid, and of the vitamin B complex tablets, thiamine hydrochloride, had been in part omitted or abstracted.

DISPOSITION: January 8, 1948. A plea of nolo contendere having been entered on behalf of the corporation, the court imposed a fine of \$750 on each of the two counts of the information. The individual defendant, Israel Steinberg, having entered a plea of not guilty, the court found him not guilty.

13481. Misbranding of Hyland's Natural B Complex Tablets. U. S. v. Standard Homeopathic Co. Plea of guilty. Fine, \$300. (F. D. C. No. 22071. Sample No. 31283-H.)

INFORMATION FILED: September 25, 1947, Southern District of California, against the Standard Homeopathic Co., a corporation, Los Angeles, Calif.

INTERSTATE SHIPMENT: On or about June 18, 1945, from Cincinnati, Ohio to Los Angeles, Calif.

LABEL, WHEN SHIPPED: "Tablets Special Formula S1414 Each tablet represents: Thiamine (B₁) . . . 55 U. S. P. Units Vitamin D . . . 100 U. S. P. Units Riboflavin (G) . . . 0.166 mg. Pyridoxine (B₆) . . . 0.28 mg. Pantothenic Acid . . . 0.083 mg. Niacin . . . 0.166 mg together with all other members of the Vitamin B Complex natural to yeast. Alfalfa . . . 0.325 Gm. (For Repackaging Purposes Only) John T. Lloyd Laboratories, Inc. 1414 Cincinnati, Ohio."

ALLEGED VIOLATION: Between June 30, 1945, and August 1, 1946, while the tablets were being held for sale after shipment in interstate commerce, the defendant caused a number of the tablets to be removed from the container in which they had been shipped, repacked them into bottles, and caused a number of circulars and placards to be displayed and placed in proximity to the repackaged tablets, which acts of the defendant resulted in the tablets being misbranded. The repackaged tablets were labeled in part "Hyland's Natural B Complex Tablets." The circulars were headed "Lack of . . . Vitamin B Complex May Cause," and the placards were entitled "Deficiency of Vitamin B₂," "Deficiency of Vitamin D," "Deficiency of Vitamin B₁," "Deficiency of Vitamin A," "Deficiency of Vitamin Calcium Pantothenate," "Deficiency of Vitamin Nicotinic Acid," and "Deficiency of Vitamin C."

NATURE OF CHARGE: Misbranding, Section 403 (a), the following statements on the label of the repackaged tablets were false and misleading: "Alfalfa 0.325 Gm. together with all the other members of the Vitamin B Complex natural to yeast * * * With the object of more natural vitamin fortification, natural yeast and alfalfa have been utilized" and "Requirements for Pyridoxine, Pantothenic Acid * * * have not been determined." These statements represented and suggested that the tablets contained nutritionally significant amounts of alfalfa and yeast and that the need for pyridoxine and pantothenic acid in human nutrition has been established, whereas the tablets did not contain nutritionally significant amounts of alfalfa and yeast and the need for pyridoxine and pantothenic acid in human nutrition has not been established. Further misbranding, Section 403 (j), the repackaged tablets

purported to be, and were represented for special dietary uses by man by reason of their vitamin properties in respect to vitamins A, C, E, and K; and the label did not bear, as required by the regulations, statements of the proportion of the minimum daily requirements of vitamins A and C and statements of the quantity of vitamins E and K which would be supplied by the tablets when consumed in a specified quantity during a period of one day, or a quantity reasonably suitable for consumption in such periods; and the label of the tablets failed also to bear a statement that the need for vitamins E and K in human nutrition has not been established.

Further Misbranding, Section 403 (a), certain statements in the circulars and placards were false and misleading. These statements represented and suggested that there were widespread deficiencies of vitamin B complex; that the tablets contained significant amounts of all known factors in vitamin B complex; that they contained substantial and nutritionally significant amounts of vitamins A, C, E, and K; and that they would be efficacious in the cure, mitigation, treatment, and prevention of constipation, digestive disturbances, extreme nervousness, insomnia, loss of appetite, skin diseases, inflammation of the eyes, loss of weight, "run down" conditions, muscular weakness, impaired growth, cataract, nervousness, loss of hair, canker sore mouth, redness and swelling of tongue, sensitiveness to bright light, bow legs, teeth cavities, rickets, poor growth, lack of vigor, restlessness, misshapen bones, retarded growth, loss of "pep," flabby condition of stomach and intestines, heart and blood vessel disturbances, nervous irritability, neuritis, loss of muscle tone, impaired digestion, night blindness, skin eruptions, lowered resistance, dryness of eyelids, stomach and intestinal disturbances, nerve degeneration, poor assimilation of other vitamins, gray hair, headache, dizziness, confusion, insomnia, indigestion, nausea, defective teeth, scurvy, gum diseases, fragile bones, soreness of joints, edema (swelling), and stomach ulcers. There are not widespread deficiencies of vitamin B complex; the tablets did not contain significant amounts of all known factors in the vitamin B complex; they did not contain substantial and nutritionally significant amounts of vitamins A, C, E, and K; and they would not be efficacious in the cure, mitigation, treatment, and prevention of the above-mentioned disease conditions.

DISPOSITION: December 10, 1947. A plea of guilty having been entered, the court imposed a fine of \$150 on each of the two counts of the information.

13482. Adulteration of Tri-B-Lex Vitamin B Complex. U. S. v. American Bio-Chemical Corp., Al G. Johns, and Joseph A. Blakeslee. Pleas of nolo contendere. Fine of \$500 against corporation and \$300 against each individual. (F. D. C. No. 22015. Sample No. 61607-H.)

INFORMATION FILED: August 1, 1947, Southern District of California, against the American Bio-Chemical Corp., Los Angeles, Calif.; Al G. Johns, president and treasurer; and Joseph A. Blakeslee, vice president and secretary.

ALLEGED SHIPMENT: Between the approximate dates of June 10 and July 8, 1946, from the State of California into the State of Washington.

NATURE OF CHARGE: Adulteration, Section 402 (b) (1), a valuable constituent of the article, nicotinic acid, had been in part omitted and abstracted, in that the article purported to contain in each cubic centimeter 5 milligrams of nicotinic acid, whereas it contained a smaller amount.

The information alleged also that two other products, calcium levulinate and obstetrical pituitary, were adulterated under the provisions of the law applicable to drugs, as reported in notices of judgment on drugs and devices, No. 2314.

DISPOSITION: August 11, 1947. Pleas of nolo contendere having been entered, the court imposed a fine of \$500 against the corporation and \$300 against each individual.

13483. Misbranding of Nature's Minerals Compound and High Potency Vitamin B Complex tablets. U. S. v. Nature's Mineral Food Co., a partnership, and Perry B. Smith. Pleas of guilty. Partnership fined \$500; individual, \$100. (F. D. C. No. 20162. Sample Nos. 16633-H, 16634-H, 17225-H.)

INFORMATION FILED: October 2, 1946, Southern District of Indiana, against the Nature's Mineral Food Co., Indianapolis, Ind., and Perry B. Smith, a partner.

ALLEGED SHIPMENT: On or about March 19 and April 12, 1945, from the State of Indiana into the State of Illinois. Accompanying the products were form letters bearing the heading "Good Morning," circulars entitled "Are You Suffering From Mineral Starvation," and leaflets entitled "Cause and Results," "Prostate Glands," "Testimonials for Nature's Minerals Rheumatism," and "Abundant Health."

Analysis showed that the Nature's Minerals Compound consisted essentially of compounds of calcium, sodium, iron, and magnesium, and sulfates, phosphates, chlorides, carbonates, free sulfur, and a trace of iodides. The High Potency Vitamin B Complex tablets contained thiamine chloride, nicotinic acid, and riboflavin.

NATURE OF CHARGE: Misbranding, Section 403 (a), the labeling of the products contained false and misleading representations regarding their efficacy in the treatment of various disease conditions and other abnormalities. The charges under Section 403 (a), which were based on these claims, were identical with the charges under Section 502 (a), as reported in notices of judgment on drugs and devices, No. 2336. In addition to the misbranding charges applicable to both products, the High Potency Vitamin B Complex tablets was further misbranded under Section 403 (a), in that the statement "High Potency Vitamin B Complex" borne on the label was false and misleading, since the product did not consist of high potency vitamin B complex, but would supply only the minimum adult daily requirement of Vitamin B₁, and smaller proportions of the other vitamins of the B complex.

DISPOSITION: December 5, 1946. Pleas of guilty having been entered, the partnership was fined \$500 and the individual defendant \$100.

13484. Adulteration and misbranding of Berko Vigortone. U. S. v. Beacon Packing Corp. Plea of guilty. Fine, \$300. (F. D. C. No. 12582. Sample No. 21937-F.)

INFORMATION FILED: February 26, 1945, against the Beacon Packing Corp., Brooklyn, N. Y.

ALLEGED SHIPMENT: On or about September 17, 1943, from the State of New York into the State of Pennsylvania.

LABEL, IN PART: "Berko Vigortone * * * Manufactured by Berko Malted Milk Co., Inc., Brooklyn, N. Y."

NATURE OF CHARGE: Adulteration, Section 402 (b) (1), vitamin A, a valuable constituent of the article had been in whole or in part omitted therefrom. The product was represented to contain 1,000 U. S. P. units of vitamin A per ounce, but contained a smaller amount.

Misbranding, Section 403 (a), the name "Vigortone" on the labels was misleading, in that it represented and suggested that the article possessed peculiar tonic and invigorative properties, whereas it did not possess such properties; the labeling was further misleading in that the statements "Vitamin B₂G" and "Vitamin B₂" represented and suggested that the article contained an amount of vitamin B₂ (G) sufficient to make an important contribution to the nutritional needs of the body for this substance, whereas it contained only a negligible amount of the vitamin, which fact was material in the light of the aforesaid statements. The statements on the jar label, "Each Ounce Contains approximately the following active ingredients: Vitamin A 1,000 U. S. P. Units," were false and misleading, since the article contained less than 1,000 U. S. P. units of vitamin A per ounce, namely, less than 250 U. S. P. units of vitamin A per ounce.

Misbranding, Section 403 (j), the article purported to be, and was represented, for special dietary uses by man by reason of its vitamin and mineral properties with respect to vitamins A, B₁, B₂, and D, and calcium, phosphorus, and iron; and its label failed to bear such information concerning its vitamin and mineral properties as has been prescribed by the regulations as necessary in order fully to inform purchasers as to its value for such uses, since its label failed to bear a statement of the proportion of the minimum daily requirements for the aforesaid vitamins and minerals which would be supplied by the article when consumed in a specified quantity during the period of one day, which quantity is the amount customarily or usually consumed during a period of one day or a quantity reasonably suitable for consumption in that period.

DISPOSITION: The defendant filed a motion to dismiss this action and also the action against the Berko Malted Milk Co., Inc., reported in the following notice of judgment, No. 13485, on the grounds (1) that the informations did not state facts sufficient to constitute an offense against the United States and (2) that prosecution was prohibited by Section 703 of the law (21 U. S. C. A. 373). The defendant alleged that the issues involved in both informations were identical, except that the Berko Malted Milk Co., Inc., was the manufacturer of the product and the Beacon Packing Corp. was the distributor. The defendant argued in support of its motion that all evidence obtained against the defendant was procured as a result of inspection and examination of the corporation's books and papers by inspectors of the Federal Security Administrator, and that the inspectors made copies of such records "showing the movement in interstate commerce" of the product.

On November 13, 1946, the court denied the defendant's motion to dismiss, and ruled as follows:

The Beacon Packing Corporation is not a carrier; it is not a person "receiving food, drugs * * * in interstate commerce" or a holder thereof, within the purview of the statute (21 U. S. C. A. 373), if the latter is presently understood.

Such carrier, or good faith purchaser, or consignee of the manufacturer, could not be the object of a prosecution for violation of the law by suffering the use of its own records against it. That is all.

The Beacon Packing Corporation is not shown to be entitled to the immunity which might attach to it, if it were such a purchaser or consignee.

The Information is sufficient in form. Motion denied.

On May 22, 1947, a plea of guilty having been entered on behalf of the defendant, the court imposed a fine of \$150 on each of the 2 counts of the information.

13485. Adulteration and misbranding of Berko Vigortone. U. S. v. Berko Malted Milk Co., Inc. Plea of guilty. Fine, \$200. (F. D. C. No. 12583. Sample No. 76307-F.)

INFORMATION FILED: February 26, 1945, against Berko Malted Milk Co., Inc., of Brooklyn, N. Y.

ALLEGED SHIPMENT: On or about December 29, 1943, from the State of New York into the State of New Jersey.

LABEL, IN PART: "Berko Vigortone Vitamins Chocolate Flavored Vitamins * * * B₂G Each ounce contains approximately the following active ingredients: Vitamin A 1000 U. S. P. Units Vitamin B₁ 250 International Units Vitamin B₂ 200 Gamma Units Vitamin D 400 U. S. P. Units."

NATURE OF CHARGE: Adulteration, Section 402 (b) (1), valuable constituents of the article, calcium, phosphorus, and iron, had been in whole or in part omitted therefrom. Each ounce of the article was represented to contain 0.294 gram of calcium, 0.182 gram of phosphorus, and 0.016 gram of iron, but in fact contained not more than 0.091 gram of calcium, not more than 0.125 gram of phosphorus, and not more than 0.0014 gram of iron.

Misbranding, Section 403 (a), the name "Vigortone" was misleading, since it created the impression that the product possessed peculiar tonic and invigorating properties, whereas it did not. The labeling was further misleading, since the statements Vitamins "B₂G and Vitamin B₂" on the label created the impression that the article contained an amount of vitamin B₂(G) which would contribute in an important respect to the requirements of the body for that vitamin. The product contained a negligible and unimportant amount of vitamin B₂(G), which fact is material in the light of the statements borne on the jar label wherein these statements "Each Ounce Contains approximately the following ingredients: * * * Calcium 0.294 grams, Phosphorus 0.182 grams, Iron 0.016 grams" were false and misleading, since the article contained smaller amounts of calcium, phosphorus, and iron than so represented.

Section 403 (j), the article purported to be, and was represented, for special dietary uses by man by reason of its vitamin properties with respect to vitamins A, B₁, B₂, and D, and its mineral properties with respect to calcium, phosphorus, and iron; and its label failed to bear such information concerning its vitamin and mineral properties as has been determined to be, and by regulations prescribed as, necessary in order fully to inform purchasers as to its value for such uses. The label also failed to bear a statement of the proportion of the minimum daily requirements for vitamins A, B₁, B₂, and D, and the

minerals, calcium, phosphorus, and iron, which would be supplied by the article when consumed in a specified quantity during a period of 1 day.

DISPOSITION: May 22, 1947. A plea of guilty having been entered, the court imposed a fine of \$200.

13486. Misbranding of Key-Mins citrate and phosphate crystals. U. S. v. Edward T. Keenan (Keenan Laboratories). Plea of nolo contendere. Fine, \$100. (F. D. C. No. 21446. Sample No. 7603-H.)

INFORMATION FILED: May 28, 1947, Southern District of Florida, against Edward T. Keenan, trading as Keenan Laboratories, Frostproof, Fla.

ALLEGED SHIPMENT: On or about July 2, 1945, from the State of Florida into the State of New York.

NATURE OF CHARGE: Misbranding, Section 403 (a), certain statements in the labeling of the article were false and misleading.

The article was alleged also to be misbranded under the provisions of the law applicable to drugs, as reported in notices of judgment on drugs and devices, No. 2335, in which are quoted excerpts from the labels, indicating the composition of the product and the nature of the false and misleading statements.

DISPOSITION: December 31, 1947. A plea of nolo contendere having been entered, the court imposed a fine of \$100.

13487. Misbranding of Mylo. U. S. v. 17 Dozen Bottles * * *. (F. D. C. No. 22996. Sample No. 39531-H.)

LIBEL FILED: April 25, 1947, Eastern District of Wisconsin.

ALLEGED SHIPMENT: On or about August 19, 1946, by International Laboratories, from Chicago, Ill.

PRODUCT: 17 dozen bottles of Mylo at Milwaukee, Wis.

LABEL, IN PART: "240 cc. Mylo * * * Calcium 750 milligrams Phosphorus 750 milligrams Iron 10 milligrams Vitamin A 4,000 U. S. P. Units Vitamin D 400 U. S. P. Units B₁ (Thiamin Hydrochloride) 333 U. S. P. Units B₂ (Riboflavin) 2 milligrams."

NATURE OF CHARGE: Misbranding, Section 403 (a), the following statements in the labeling were misleading: (Bottle label) "A supplement for use when reducing * * * A preparation containing diastase, which aids in the enzymatic action of foods plus the full daily requirements of vitamins and minerals * * * devised to provide a low calorie preparation, but right in factors necessary to insure the adequacy of the reducing diet" and (leaflet attached to bottle) "Grow Slim and Trim with Mylo * * * Calcium is the muscle mineral. Iron is the blood mineral. Phosphorus helps build the nerve tissue, bones and teeth." These statements represented and suggested that the product would be effective to cause loss of body weight, to supply all nutritional factors that may be deficient in a reducing diet, to aid digestion of food through enzymatic action, and to build muscle, blood, teeth, and nerves. The product would not be effective for such purposes.

DISPOSITION: December 12, 1947. The sole intervener having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered destroyed.

13488. Misbranding of Veta-Roni. U. S. v. 68 Cartons * * *. (F. D. C. No. 20232. Sample No. 63255-H.)

LIBEL FILED: June 21, 1946, Southern District of New York.

ALLEGED SHIPMENT: On or about April 8, 1946, by the Prince Macaroni Mfg. Co., from Lowell, Mass.

PRODUCT: 68 cartons, each containing 12 1-pound packages, of Veta-Roni at New York, N. Y. Examination of the product showed that it contained approximately 13 percent protein and 55 percent starch.

LABEL, IN PART: "Prince Veta-Roni Health Food."

NATURE OF CHARGE: Misbranding, Section 403 (a), the following statements on the label were false and misleading: "Health Food * * * You get much less starch in Veta-Roni than in most similar wheat products. The lower starch content makes Veta-Roni the ideal food for those who want to

keep their weight down and their food-value up. It keeps you well nourished without increasing your weight * * * There's more protein content in Veta-Roni than in some meats. Veta-Roni has all the essential mineral content, plus an abundance of the vitamins which are so necessary to the continued good health of both young and old * * * Made from * * * ingredients selected for high protein and low starch content." The statements in the label represented and suggested that the article was of special nutritional value because of lower starch and higher protein content than similar wheat products; that it was less fattening than similar wheat products; that it was a health food supplying all the minerals essential to man and an abundance of vitamins; and that it would provide more protein than some meats. The difference in starch and protein content between the article and macaroni and spaghetti was nutritionally inconsequential; the article was not less fattening than macaroni and spaghetti; it would not supply all the minerals essential to man, nor an abundance of vitamins; and it would not provide more protein than meats. Further misbranding, Section 403 (j), the article purported to be and was represented as a food for special dietary uses by man by reason of its vitamin and mineral content and by reason of its value in the control of body weight, and in dietary management with respect to disease; and its label failed to bear, as required by the regulations, a statement of the kind and quantity of vitamins and minerals supplied by the article when consumed in a specified quantity during a period of one day and a statement of the percent by weight of protein, fat, and available carbohydrates in the article, and the number of available calories supplied by a specified quantity of it.

DISPOSITION: October 16, 1946. No claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to charitable institutions.

13489. Alleged misbranding of Body Cell Salts. U. S. v. Kirkpatrick Laboratories, Inc., and Dr. George Kirkpatrick. Pleas of not guilty. Counts 1 and 3 dismissed. Defendants acquitted on remaining counts. (F. D. C. No. 15502. Sample No. 60500-F.)

INFORMATION FILED: May 24, 1945, District of Oregon, against Kirkpatrick Laboratories, Inc., and Dr. George Kirkpatrick, an individual, Portland, Ore.

ALLEGED SHIPMENT: On or about April 28, 1944, from the State of Oregon into the State of California.

LABEL, IN PART: "Body Cell Salts (Solution 'A') * * * Contains the following ingredients: Aluminum, Carbonate, Chlorine, Calcium, Iron, Magnesium, Natrium, Phosphate, Sulphur, Silica," or "(Solution 'B') * * * Contains the following ingredients: Carbonate, Calcium, Chlorine, Iodine, Natrium, Potassium, Sulphur, Silica."

NATURE OF CHARGE: Misbranding, Section 403 (a), the nature of the charges under this section are identical with the charges under Section 502 (a), as set forth in notices of judgment on drugs and devices, No. 2332.

Further misbranding, Section 403 (j), the articles purported to be and were represented for special dietary uses by man by reason of their mineral properties, and their labels failed to bear such information concerning their mineral properties as has been determined to be and by regulations prescribed as necessary in order to inform purchasers as to their value for such uses. The label of the Solution "A" failed to bear a statement of the proportions of the minimum daily requirement for calcium and iron which would be supplied by the article when consumed in a specified quantity during a period of one day, and the label of the Solution "B" failed to bear a similar statement with respect to calcium and iodine.

The products were alleged also to be misbranded under the provisions of the law applicable to drugs, as reported in notices of judgment on drugs and devices, No. 2332.

DISPOSITION: Pleas of not guilty having been entered on behalf of the defendants, the case came on for trial before a jury on or about March 24, 1947. During the trial, counts 1 and 3 charging that the articles were foods were dismissed, the court ruling that they were not foods. At the conclusion of the trial, the court ordered the defendants acquitted on the remaining counts, as set forth in the notice of judgment previously referred to.

13490. Misbranding of Lin-A-Cea. U. S. v. Parke D. Brollier (Park-Lee Products Co.). Plea of nolo contendere. Fine, \$300 and costs. (F. D. C. No. 23242. Sample No. 38406-H.)

INDICTMENT RETURNED: February 16, 1948, Northern District of Ohio, against Parke D. Brollier, trading as the Park-Lee Products Co., Lorain, Ohio.

ALLEGED SHIPMENT: On or about August 22, 1946, from the State of Ohio into the State of Michigan.

PRODUCT: Examination showed that the product was ground, roasted flaxseed.

NATURE OF CHARGE: Misbranding, Section 403 (a), certain statements in the labeling of the article were false and misleading.

The article was alleged also to be misbranded under the provisions of the law applicable to drugs, as reported in notices of judgment on drugs and devices, No. 2418, in which is set forth the nature of the false and misleading statements referred to above.

DISPOSITION: May 10, 1948. A plea of nolo contendere having been entered, the court imposed a fine of \$300 and costs.

13491. Alleged misbranding of Protecto. U. S. v. Bess J. Levine (Miracle Food Co.). Plea of not guilty. Tried to the court. Verdict of not guilty. (F. D. C. No. 23588. Sample No. 41022-H.)

INFORMATION FILED: February 13, 1948, Eastern District of Pennsylvania, against Bess J. Levine, trading as the Miracle Food Co., Philadelphia, Pa.

ALLEGED SHIPMENT: On or about January 31, 1947, from the State of Pennsylvania into the State of Tennessee.

LABEL IN PART: "Protecto contains Milk Whey Powder, Malt Sugar 200,000,000 of Acidurid Bacteria per 1 C.C. 16 ozs. * * * Expir. date Apr. 2, 1947."

NATURE OF CHARGE: Misbranding, Section 403 (a), the label statements "Contains * * * 200,000,000 of Acidurid Bacteria per 1 C.C. * * * Expir. date Apr. 2, 1947" were false and misleading, since the statements represented and suggested that prior to April 2, 1947, the article would contain not less than 200,000,000 acidurid bacteria per 1 cc., whereas the article on a date prior to April 2, 1947, namely, March 17, 1947, contained less than .4 percent of the acidurid bacteria represented.

The article was alleged also to be misbranded under the provisions of the law applicable to drugs, as reported in notices of judgment on drugs and devices, No. 2419.

DISPOSITION: A plea of not guilty having been entered, the case came on for trial before the court without a jury on the basis of the stipulation and briefs of the parties. On July 1, 1948, the court found the defendant not guilty. The opinion handed down by the court in pronouncing judgment is set forth in notices of judgment on drugs and devices, No. 2419.

13492. Alleged misbranding of Ayds vitamin and mineral candy. U. S. v. 61 Boxes, etc. Libel ordered dismissed. (F. D. C. No. 9461. Sample No. 19667-F.)

LIBEL FILED: March 1, 1943, District of Massachusetts.

ALLEGED SHIPMENT: On or about January 25, 1943, by the Carlay Co., from Chicago, Ill.

PRODUCT: 61 1-pound boxes and 69 2-pound boxes of Ayds vitamin and mineral candy at Boston, Mass. Examination indicated that the product was essentially caramel candy.

NATURE OF CHARGE: Misbranding, Section 403 (a), certain statements in the labeling of the article were false and misleading, since they represented and suggested that use of the product made easy the loss of body weight, either quickly or slowly, whereas the use of the article would have no effect in causing loss of body weight; and the label designation "Ayds," by reason of representations made by or on behalf of the manufacturer and owner, had acquired the meaning "aids in reducing" when used in association with candy which was to be eaten by obese individuals as part of a plan for reducing excess fat, and having acquired and attained such meaning in such association, was false and misleading as applied to candy that did not aid in reducing weight.

DISPOSITION: The Carlay Co. appeared as claimant and filed an answer denying the allegations of misbranding. The claimant also filed a motion for removal of the proceeding to another district, which motion was opposed by the Government on the grounds that the law does not authorize removal of an action based upon an alleged misbranding when such misbranding has been the basis of a prior judgment in favor of the Government in criminal, injunction, or libel proceedings, and that judgments had been entered in favor of the Government in several libel proceedings involving labeling which although differing substantially in wording, raised the same issue, namely, whether Ayds candy is effective in causing loss of body weight. After considering the brief of the parties, the court ruled as follows:

HEALY, *District Judge*: "Since the prior proceedings cited by the United States in its brief were not 'based upon the same * * * misbranding' within the meaning of Section 334 of Title 21 of the United States Code, I am of the opinion that this libel comes within the removal provision of that section. The proceedings will be removed to the United States District Court for the Eastern District of Wisconsin."

In accordance with the foregoing opinion, an order was entered on April 28, 1943, for removal of the case for trial to the Eastern District of Wisconsin. Thereafter, the claimant filed a motion in the Eastern District of Wisconsin for removal of the case to the Northern District of Illinois for trial, for the reason that the trial in the Eastern District of Wisconsin would cause undue and unnecessary hardship to the claimant and would cause great inconvenience to the claimant's witnesses. On June 7, 1943, and without objection by the Government's attorney, an order was entered directing the removal of the case to the Northern District of Illinois. A motion to vacate the order of June 7 was subsequently filed in the Eastern District of Wisconsin and was denied on April 24, 1944. On September 18, 1944, pursuant to a motion by the United States Attorney for the Northern District of Illinois, the case was dismissed.

13493. Adulteration and misbranding of Enricho No. 1 and Enricho No. 2. U. S. v. Dawe's Mfg. Co. Plea of guilty. Fine, \$1,500. (F. D. C. No. 23223. Sample Nos. 19334-H, 51504-H.)

INFORMATION FILED: December 4, 1947, Southern District of Illinois, against the Dawe's Mfg. Co., a corporation, Peoria, Ill.

ALLEGED SHIPMENT: On or about March 21 and 27, 1946, from the State of Illinois into the States of Iowa and Minnesota.

PRODUCT: Analyses disclosed that the Enricho No. 1 contained per gram 70 U. S. P. units of vitamin D, 50 U. S. P. units of vitamin A, more than 100 micrograms of riboflavin, approximately 86 micrograms of vitamin B₁, approximately 70 micrograms of ascorbic acid, and 119 micrograms of niacin; and that the Enricho No. 2 contained per gram 200 U. S. P. units of vitamin D, 53 micrograms of riboflavin, 50 micrograms of vitamin B₁, less than 25 U. S. P. units of vitamin A, and approximately 80 micrograms of ascorbic acid and 75 micrograms of niacin.

NATURE OF CHARGE: Enricho No. 1. Adulteration, Section 402 (b) (1), valuable constituents, vitamins A and D and ascorbic acid, had been in part omitted and abstracted from the article. Misbranding, Section 403 (a), the label statements "Vitamin D₃ (Chick) 100 AOAC Units (Per Gram) 45,400 AOAC Units (Per Pound) Vitamin D₂ (4-Legged Animals) 100 USP Units (Per Gram) 45,400 USP Units (Per Pound) Vitamin A 100 USP Units (Per Gram) 45,400 USP Units (Per Pound) * * * Ascorbic Acid 100 Megm. (Per Gram) 45,400 Megm. (Per Pound)" were false and misleading, since the article contained less than those amounts of vitamin D₃, vitamin D₂, vitamin A, and ascorbic acid. Further misbranding, Section 403 (a), certain statements on the label of the article were false and misleading, since they represented and suggested that the article by reason of its vitamin C content would be of value to farm animals; that it would be of aid to poultry and livestock in preventing and recovering from setbacks and sickness due to shortage of vitamins; that the use of the article would insure health of animals; that the article would be efficacious by reason of its vitamin content in the cure, mitigation, treatment, and prevention of infections in poultry and livestock; that the article was necessary to supply the vitamins and minerals which are indispensable for

poultry and livestock; that growth, feathering, appetite, blood, digestion, and utilization of feed of poultry, and growth, bones, coat, production and reproduction, blood, appetite, and digestion of 4-legged animals are frequently affected by the vitamin and mineral intake; that it would be efficacious in the prevention in poultry of low disease resistance, rickets, and paralysis; that it would be efficacious in the prevention in 4-legged animals of low disease resistance, rickets, diarrhea, anemia, night blindness, nutritional scours, and paralysis; that it was an extra rich food; that it would be efficacious in the treatment of weak, run-down, and convalescent birds and animals, backward flocks, sickly animals, and females during pregnancy and nursing; that it was rich in the complete vitamin B complex; and that poultry and livestock had a need for a supplement rich in the complete vitamin B complex. The article would not be of value to farm animals by reason of its vitamin C content, in that farm animals have no need for vitamin C; the article would not insure the health of animals; the article was not necessary to supply the vitamins and minerals indispensable for poultry and livestock, in that many poultry and livestock rations adequately supply the vitamins and minerals needed; growth, feathering, appetite, blood, digestion, and utilization of feed of poultry, and growth, bones, coat, production and reproduction, blood, appetite, and digestion of 4-legged animals are seldom affected by the vitamin and mineral intake, but are often affected by factors other than vitamin and mineral intake; it was not an extra rich food; it was not rich in the complete vitamin B complex; poultry and livestock have no need for a supplement rich in the complete vitamin B complex; and the article would not be efficacious in the treatment and prevention of the above-mentioned disease conditions.

Enricho No. 2. Adulteration, Section 402 (b) (1), a valuable constituent, vitamin A, had been in part omitted and abstracted from the article. Misbranding, Section 403 (a), certain statements on the label of the article were false and misleading, since they represented and suggested that the article contained 50 U. S. P. units of vitamin A per gram and 22,700 U. S. P. units of vitamin A per pound; that it would be of value for use by poultry by reason of its content of 11 vitamins and 5 trace minerals, including niacin, vitamin B₁, choline, pyridoxine, vitamin K, vitamin E, vitamin C, iron, copper, and sulfur; that it by reason of its vitamin C content would be of value to farm animals; that it would be of aid to poultry and livestock in preventing and recovering from setbacks and sickness due to shortage of vitamins; that the use of the article would insure the health of animals; that the article would be efficacious by reason of its vitamin content in the cure, mitigation, treatment, and prevention of infections of poultry and livestock; that the article was necessary to supply the vitamins and minerals which are indispensable for poultry and livestock; that in the case of poultry, egg production, hatchability, feathering, appetite, assimilation of food, shells of eggs, lower resistance to disease, blood, and the thyroid are frequently affected by the vitamin and mineral intake; that the article was rich in the complete vitamin B complex; and that poultry and livestock have a need for a supplement rich in the complete vitamin B complex. The article contained less vitamin A than represented; it would not be of value for use by poultry by reason of its content of 11 vitamins and 5 trace minerals, as mentioned above; it would not be of value to farm animals by reason of its vitamin C content, in that farm animals have no need for vitamin C; the article was not necessary to supply the vitamins and minerals which are indispensable for poultry and livestock, in that many poultry and livestock rations adequately supply the vitamins and minerals needed; in the case of poultry, egg production, hatchability, feathering, appetite, assimilation of feed, shells of eggs, low resistance to disease, blood, and thyroid are seldom affected by vitamin and mineral intake but are often affected by factors other than vitamin and mineral intake; the article was not rich in the complete vitamin B complex; poultry and livestock have no need for a supplement rich in the complete vitamin B complex; and the article was not efficacious for the purposes represented.

The articles were alleged also to be misbranded under the provisions of the law applicable to drugs, as reported in notices of judgment on drugs and devices, No. 2443.

DISPOSITION: January 5, 1948. A plea of guilty having been entered, the court imposed a fine of \$1,500.

MISCELLANEOUS FOODS

13494. Alleged misbranding of vanilla pudding. U. S. v. 738 Cases * * *. Tried before the court. Judgment for claimant. Libel dismissed. (F. D. C. No. 14038. Sample No. 82824-F.)

LIBEL FILED: October 20, 1944, District of New Jersey; amended libel filed December 27, 1944.

ALLEGED SHIPMENT: On or about July 19 and August 16, 1944, by the Jell-Well Dessert Co., from Los Angeles, Calif.

PRODUCT: 738 cases, each containing 48 3½-ounce cartons, of Jiffy-Lou Vanilla Flavor Pudding at Jersey City, N. J.

LABEL, IN PART: "Jiffy-Lou Vanilla Flavor Pudding."

NATURE OF CHARGE: Misbranding, Section 403 (d), the container was so filled as to be misleading, since the powder occupied only about 55 percent of the volume of the carton.

DISPOSITION: February 8, 1946. Safeway Stores, Inc., having appeared as claimant and the proceedings having been removed on petition of the claimant to the District of Arizona, the case came on for trial before the court for that district. At the conclusion of the trial, the court ordered the libel dismissed and entered the following findings of fact and conclusions of law:

LING, *District Judge*:

FINDINGS OF FACT

1.

"That pursuant to a libel proceedings instituted by the United States District Attorney for the District of New Jersey in the United States District Court for said District of New Jersey, praying for the condemnation of the article hereinafter described as misbranded within the meaning of 21 U. S. C. 343 (d) and to the monition issued thereon, the United States Marshal for the said District of New Jersey attached 408 cases of merchandise, more or less, each containing 48 cartons of an article labeled in part 'Jiffy-Lou Vanilla Flavor Pudding' and thereafter and now holds said merchandise in his custody thereunder.

2.

"That thereafter Safeway Stores, Incorporated, a Maryland corporation, intervening in said proceeding, made and filed its claim to said merchandise, in the manner and form required by law, claiming to be the true and bona fide sole owner of said 408 cases, more or less, of said merchandise.

3.

"That thereafter said Safeway Stores, Incorporated, as such claimant, deposited the sum of \$250.00 with the Clerk of said United States District Court for the District of New Jersey in lieu of a stipulation for claimant's costs, which said sum remains on deposit with the Clerk aforesaid.

4.

"That thereafter claimant, Safeway Stores, Incorporated, filed its petition for removal of said proceedings pursuant to Section 304 of the Federal, Food, Drug and Cosmetic Act of June 25, 1938, praying the removal thereof to a district of reasonable proximity to said claimant's principal place of business for trial.

5.

"That thereafter the said United States District Attorney for the District of New Jersey filed in the court and matter aforesaid an Amended Libel for Condemnation seeking the condemnation of 738 cases, more or less, each containing 48 cartons of an article labeled in part 'Jiffy-Lou Vanilla Flavor Pud-

ding' upon the grounds and for the cause alleged in the original libel, pursuant to which said Amended Libel an Amended Monition was issued, directed to the aforesaid United States Marshal for the said District of New Jersey, commanding the attachment by said Marshal of the merchandise aforesaid, and pursuant to which said Marshal did attach said 738 cases, more or less, of said merchandise, and thereafter and now holds said merchandise in his custody thereunder.

6.

"That thereafter Safeway Stores, Incorporated, a Maryland corporation, intervening in said proceeding, made and filed its amended claim to said merchandise in the manner and form required by Law, claiming to be the true and bona fide sole owner of said 738 cases, more or less, of the commodity aforesaid.

7.

"That thereafter said claimant filed its further Petition for Removal directed to said Libel and Amended Libel for Condemnation and to the Monitions issued thereon, which said petition was thereafter, and on the 26th day of February, 1945, granted by the said District Court for the District of New Jersey, Judge William J. Smith presiding, and said condemnation proceeding was ordered removed for trial to the United States District Court for the District of Arizona, at Phoenix, Arizona, as a district of reasonable proximity to the principal place of business of said claimant.

8.

"That thereafter said cause was removed to this court and filed herein and within the time limited by law, as extended by proper order, from time to time, Safeway Stores, Incorporated, filed its Answer, claiming to be the owner of said merchandise and denying the same was misbranded and should be condemned, and the matter proceeded to trial upon the record and pleadings aforesaid.

9.

"That claimant, Safeway Stores, Incorporated, is the true and bona fide sole owner of the merchandise the subject of said Libel and Amended Libel and the Monition and Amended Monition issued thereon and now in the custody of the United States Marshal for the District of New Jersey.

10.

"That said 738 cases, more or less, of said merchandise was shipped, as alleged in the Libel and Amended Libel aforesaid, in interstate commerce, by claimant herein, and then was a food product subject to the provisions and requirements of the Federal Food, Drug and Cosmetic Act of June 25, 1938, 21 U. S. C. 301, et seq.

11.

"That the food product sought to be condemned herein is a preparation or formula containing ingredients which require the addition of a standard and recognized quantity of liquid to produce a food for human consumption, and said merchandise is not prepared or sold by claimant for use as food in the form sold; that said merchandise is sold by claimant for use as food after the addition of said liquids and after cooking.

12.

"That the container used is of a size which is recognized by the general public as a standard size for this and similar commodities and contains a standard amount of ingredients sufficient to produce and make a standard amount of finished product and the amount of finished product expected by the consuming public; that said container plainly states on the outside thereof the weight of the ingredients contained therein and the fact that such ingredients will produce one pint of food when prepared for human consumption.

13.

"That the container used for the commodity sought to be condemned is commonly and universally recognized as containing enough formula and ingredients to make a standard and publicly recognized recipe producing one pint of pudding; that such fact is known to the buying public generally, and there is no relationship between the size of the container used and factors and reasons causing the public to purchase the commodity involved.

14.

"That, while said commodity fills only approximately about 55% of the exterior container without allowance for space required by the inner removable package, the container used is sanitary, convenient to the user, and of a type reasonably necessary in packaging, handling and utilizing the product sought to be condemned; that the type of inner packaging used in packaging the commodity involved requires the use of an outer container larger than the inner package; that said container is not so filled as to be misleading within the meaning of subdivision (d), Section 343, 21 U. S. C., or otherwise, and said container and commodity does not otherwise violate said Federal Food, Drug and Cosmetic Act of June 25, 1938.

CONCLUSIONS OF LAW

1.

"That 21 U. S. C. 343 (d) applies only to a container so made, formed or filled as to be misleading in fact.

2.

"That since the proof shows said container is not so made, formed or filled as to be misleading, the Libel and Amended Libel should be dismissed, the Motion and Amended Motion should be quashed, and the Clerk of the United States District Court for the District of New Jersey should be directed to refund to claimant the cost deposit made by claimant in lieu of a stipulation for costs in the sum of \$250.00 and on deposit with said Clerk, and the United States Marshal for the District of New Jersey should be directed to release and deliver said 738 cases, more or less, of said article labeled 'Jiffy-Lou Vanilla Flavor Pudding' and that judgment should enter accordingly.

"Settled and approved this 8th day of February, 1946."

13495. Adulteration and misbranding of ice cream powder. U. S. v. 154 Cartons
* * *. (F. D. C. No. 24907. Sample No. 18964-K.)

LIBEL FILED: June 23, 1948, Eastern District of Kentucky.

ALLEGED SHIPMENT: On or about May 12, 1948, by the Roosa & Ratliff Co., from Cincinnati, Ohio.

PRODUCT: 154 cartons, each containing 12 3-ounce boxes, of ice cream powder at Frankfort, Ky. Examination showed that the product consisted essentially of starch, gum, a little sugar, and artificial flavors, to which ingredients cream or milk and sugar must be added to make a finished ice cream.

LABEL, IN PART: "Smooth-O Ice Cream Powder."

NATURE OF CHARGE: Adulteration, Section 402 (b) (1), valuable constituents, cream or milk and sugar, had been in whole or in part omitted from the article.

Misbranding, Section 403 (a), the name "Ice Cream Powder" was false and misleading as applied to the article to which valuable ingredients, cream or milk and sugar, must be added.

DISPOSITION: July 14, 1948. Default decree of condemnation and destruction.

13496. Adulteration of butterscotch topping. U. S. v. 19 Cases * * *. (F. D. C. No. 24971. Sample No. 37080-K.)

LIBEL FILED: June 28, 1948, Western District of Washington.

ALLEGED SHIPMENT: On or about November 11, 1946, from Los Angeles, Calif.

PRODUCT: 19 cases, each containing 4 1-gallon jars, of butterscotch topping at Seattle, Wash.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the article consisted in whole or in part of a decomposed substance by reason of the presence of mold. (The article was adulterated while held for sale after shipment in interstate commerce.)

DISPOSITION: September 1, 1948. Default decree of condemnation and destruction.

13497. Adulteration of baby soups. U. S. v. 152 Cases, etc. (F. D. C. No. 25032. Sample No. 7240-K.)

LIBEL FILED: July 9, 1948, Northern District of Ohio.

ALLEGED SHIPMENT: During June 1946, from Pittsburgh, Pa.

PRODUCT: 152 cases and 23 crates, each containing approximately 120 assorted jars, of baby soups (lamb, vegetable, chicken, liver, and beef) at Youngstown, Ohio.

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the articles consisted in whole or in part of decomposed substances. The articles were adulterated while held for sale after shipment in interstate commerce.

DISPOSITION: August 18, 1948. Default decree of condemnation and destruction.

13498. Adulteration of sausage binder. U. S. v. 1 Barrel * * *. (F. D. C. No. 24662. Sample No. 9918-K.)

LIBEL FILED: June 2, 1948, Northern District of New York.

ALLEGED SHIPMENT: On or about April 9, 1948, by Fearn Labs., from Franklin Park, Ill.

PRODUCT: 1 300-pound barrel of sausage binder at Syracuse, N. Y.

LABEL, IN PART: "Fearn's Deluxe A Binder."

NATURE OF CHARGE: Adulteration, Section 402 (a) (3), the product was unfit for food by reason of contamination with a chemical resembling xylene.

DISPOSITION: June 29, 1948. Default decree of condemnation and destruction.

13499. Misbranding of canned tamales. U. S. v. 98 Cases * * *. (F. D. C. No. 24658. Sample No. 28345-K.)

LIBEL FILED: June 8, 1948, District of New Mexico.

ALLEGED SHIPMENT: On or about September 6, 1946, by A. A. de la Torre & Sons, from El Paso, Tex.

PRODUCT: 98 cases, each containing 24 1-pound, 3-ounce cans, of tamales at Las Cruces, N. Mex.

LABEL, IN PART: "Tamales Best Ever Net Wt., 1 Lb. 3 Ozs. Packed by Whitten Bros. Canning Company, Paris, Texas."

NATURE OF CHARGE: Misbranding, Section 403 (e) (2), the product failed to bear a label containing an accurate statement of the quantity of the contents. (The product was short-weight.)

DISPOSITION: July 19, 1948. Default decree of condemnation. The product was destroyed. (Editor's note: In addition to being short-weight, the product was also undergoing progressive decomposition.)

13500. Adulteration and misbranding of coal-tar color. U. S. v. 1 Can * * *. (F. D. C. No. 23808. Sample No. 24004-K.)

LIBEL FILED: October 14, 1947, District of Minnesota.

ALLEGED SHIPMENT: On or about August 29, 1947, by the Food Materials Corp., from Chicago, Ill.

PRODUCT: 1 can of coal-tar color at St. Paul, Minn.

LABEL, IN PART: "Verity Brand Net Weight Five Pounds FD&C Blue # 1 Certified Food Colors Part of Certified Lot No. C 9527."

NATURE OF CHARGE: Adulteration, Section 402 (c), the article contained a coal-tar color other than one from a batch which had been certified in accordance with the regulations.

Misbranding, Section 403 (a), the label statements "Certified Food Colors Certified by U. S. Government in accordance with Food, Drug and Cosmetic Act Part of Certified Lot No. C 9527 Pkg. No. 3774 This Certified Dye" were false and misleading as applied to an article which had not been certified.

DISPOSITION: January 21, 1948. Griggs, Cooper & Co., St. Paul, Minn., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the product was ordered released under bond for relabeling, under the supervision of the Federal Security Agency.

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¹ (13492) Seizure contested. Contains opinion of the court.

² (13431, 13432, 13489, 13491) Prosecution contested.

³ (13426) Permanent injunction issued.

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¹ (13492) Seizure contested. Contains opinion of the court.² (13431, 13432, 13489, 13491) Prosecution contested.⁴ (13494) Seizure contested. Contains findings of fact and conclusions of law.

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	13458	corn meal and Sperry Kreated	
Cocar, Inc.:		(wheat product) -----	13367
dried whole eggs ----- ²	13432	Gioia, H. A.:	
Colo Flavor Products Co., Inc.:		dried whole eggs -----	13430, ² 13432
tomato puree -----	13473	Gioia Macaroni Co.:	
Colonial Biscuit Co. <i>See United</i>		dried whole eggs ----- ²	13432
Biscuit Co. of America.		macaroni -----	13398
Colonial Cannery, Inc.:		Giordano, J. J.:	
strawberry preserves -----	13459	dried whole eggs -----	13430, ² 13432
Comegys Food Co.:		Giordano & Gioia. <i>See</i> Gioia,	
black pepper -----	13476	H. A., and Giordano, J. J.	
Coyne, J. W.:		Githens, Rexasmer & Co.:	
dried whole eggs ----- ²	13432	tomato puree -----	13472
Cramer Products Co.:		Griffith Durney Co.:	
corn muffin mix and vanilla		canned peaches -----	13444
cake mix -----	13407	Grover, George:	
Damore Spice Co.:		huckleberries -----	13452
black pepper -----	13474	Gunder Cooperative Cheese Fac-	
Dawe's Mfg. Co.:		tory:	
Enricho No. 1 and Enricho No.		Cheddar cheese -----	13428
2 -----	13493	Halferty, G. P., & Co.:	
de la Torre, A. A. & Sons:		canned salmon -----	13436
canned tamales -----	13499	Henderson, J. L., & Co.:	
Dennergy, Charles, Inc.:		canned cut green beans -----	13464
apple pomace -----	13456	Heyd, C. G., & Co.:	
Di Santo, Joseph:		butter -----	13424
cheese and butter -----	13427	Holsum Bakers:	
Di Santo & Co. <i>See</i> Di Santo,		bread and buns -----	13362
Joseph.		Houck, R. D.:	
Draper Producers Assoc., Inc.:		bread and buns -----	13362
shell eggs -----	13435	Hunter Walton & Co.:	
Dubuque Wholesale Grocer:		butter -----	13422
flour -----	13377	Hutchinson, D. W., Co., Inc.:	
Dwarfies Corp.:		oil of lemon terpeneless -----	13478
Dwarfies Wheatmix -----	13405	Hygrade Bakery Co.:	
Eastland Food Products Co.:		pretzels -----	13364
canned sardines -----	13437	Illinois Central Railroad:	
Farmers Cooperative Creamery:		flour -----	13375
butter -----	13422	International Laboratories:	
Fearn Labs.:		Mylo -----	13487
sausage binder -----	13498		

¹ (13492) Seizure contested. Contains opinion of the court.² (13431, 13432, 13489, 13491) Prosecution contested.³ (13426) Permanent injunction issued.

SHIPPERS, MANUFACTURERS, AND DISTRIBUTORS—Continued

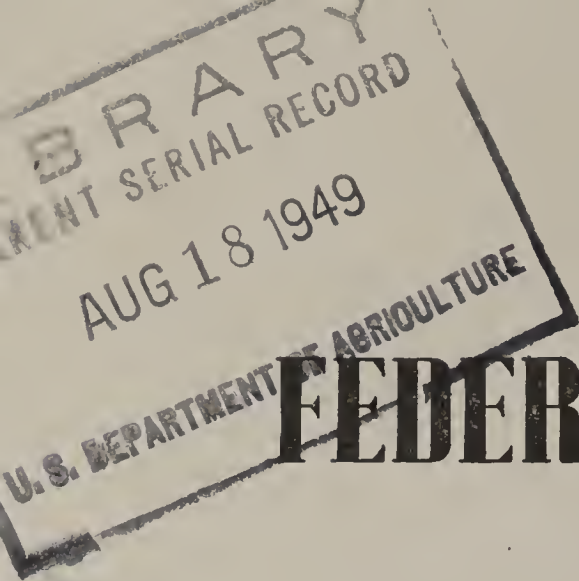
	N. J. No.		N. J. No.
Jell-Well Dessert Co.:		National Drug Laboratories, Inc.:	
vanilla pudding-----	⁴ 13494	Dicalcium Phosphate Capsules,	
Johns, Al G.:		Dicalco Capsules, Min-Rals	
Tri-B-Lex Vitamin B Complex	13482	Tablets, and Duomins Vita-	
Juliano Bros.:		min and Mineral Perles----	13470
frozen sardines-----	13438	National Orange Products, Inc.:	
Keenan, E. T.:		orange beverage base-----	13354
Key-Mins citrate and phos-		Nature's Mineral Food Co.:	
phate crystals-----	13486	Nature's Minerals Compound	
Keenan Laboratories. <i>See</i>		and High Potency Vitamin	
Keenan, E. T.		B Complex tablets-----	13483
Kirkpatrick, Dr. George:		Pacific Citrus Products Co.:	
Body Cell Salts-----	² 13489	grape punch-----	13353
Kirkpatrick Laboratories, Inc.:		Pamlico Packing Co.:	
Body Cell Salts-----	² 13489	crab meat-----	13442
Knoxville Creamery:		Park-Lee Products Co. <i>See</i> Bro-	
butter-----	13420	lier, P. D.	
Koblank, A. B.:		Parrott & Co.:	
black pepper-----	13475	canned asparagus-----	13461
Kostick Bros.:		Perry Milk Products Co., Inc.:	
blueberries-----	13450	Cheddar cheese-----	13429
Kraft Foods Co.:		Physicians Drug & Supply Co.:	
cheese-----	³ 13426	vitamin tablets-----	13480
Kretschmer Corp.:		Pillsbury Mills, Inc.:	
wheat germ-----	13404	flour-----	13375
LaGrange Mills:		Pitt Chocolate Co.:	
flour-----	13386	chocolate-covered cherries----	13417
Larson, C. A.:		Polynesian Food Specialties,	
shell eggs-----	13435	Ltd.:	
Lau, H. P., Co.:		Coconut Chips-----	13418
canned tomatoes-----	13470	Portales Milling Co.:	
Leola Creamery Co.:		flour-----	13373
butter-----	13423	Postel, Ph. H., Milling Co.:	
Levine, B. J.:		flour-----	13374
Protecto-----	² 13491	Press, Jules:	
Lloyd, John T., Laboratories,		Dicalcium Phosphate Capsules,	
Inc.:		Dicalco Capsules, Min-Rals	
vitamin B complex tablets----	13481	Tablets, and Duomins Vita-	
McAllister & Bell, Inc.:		min and Mineral Perles----	13479
cornmeal and flour-----	13368	Prince Macaroni Mfg. Co.:	
McConnell, R. R.:		Veta-Roni-----	13488
corn meal and flour-----	13368	Provincetown Fisheries Co.:	
Manitoba Fisheries, Ltd.:		frozen whiting-----	13441
frozen tullibeas-----	13439	Quality Macaroni Co.:	
Miracle Food Co. <i>See</i> Levine,		macaroni, spaghetti, and egg	
B. J.		noodles-----	13395
Mitchell Produce Co.:		Red Mill Products Co.:	
frozen whole eggs-----	13433	millet cereal-----	13406
Monocacy Valley Canning Co.:		Reymer & Brothers, Inc.:	
canned corn-----	13467	candy-----	13412
Monte Cassino Wine Co.:		Roberts Egg Products Co.:	
wine-----	13357	frozen whole eggs-----	13434
Morocco Wine Co.:		Roosa & Ratliff Co.:	
wine-----	13358	ice cream powder-----	13495
N. W. Warehouse Co.:		Sardik Food Products Corp.:	
flour-----	13381	tomato puree and tomato	
		catsup-----	13472

² (13431, 13432, 13489, 13491) Prosecution contested.³ (13426) Permanent injunction issued.⁴ (13494) Seizure contested. Contains findings of fact and conclusions of law.

SHIPPERS, MANUFACTURERS, AND DISTRIBUTORS—Continued

	N. J. No.		N. J. No.
Sarrington Milling Co.:		Spruks, David, Co.:	
buckwheat flour and self-rising		flour _____	13382
buckwheat and wheat flour		Standard Homeopathic Co.:	
compound _____	13391	Hyland's Natural B Complex	
Sasso, P.:		Tablets _____	13481
huckleberries _____	13453	Starr Confections, Inc.:	
Schafer, F. W.:		candy _____	13411
pulverized white oats (animal		Steinberg, Israel:	
feed) _____	13399	vitamin tablets _____	13480
Schafer, Frank W., Feeds. <i>See</i>		Sunset Milling & Grain Co.:	
Schafer, F. W.		cake flour _____	13390
Schick Products Co.:		Superior Macaroni Co.:	
canned spaghetti _____	13397	macaroni products _____	13394
Schleifer, Benjamin:		Traill County Farmers Union	
dried whole eggs _____ ²	13432	Produce:	
Seattle Association of Credit		butter _____	13421
Men:		Union Biscuit Co. <i>See</i> United	
canned cut green beans _____	13464	Biscuit Co. of America.	
Seminole Fruit & Preserving Co.:		United Biscuit Co. of America:	
grape jelly and plum jelly _____	13458	bakery products _____	13359
<i>See also</i> Cobbs Fruit & Pre-		crackers and cracker meal _____	13360
serving Co.		pretzels _____	13364
Shaghalian's, Inc.:		Vance, J. A.:	
candy _____	13415	flour _____	13372
Shevelove, J. J.:		Vogel, A. S.:	
dried whole eggs _____ ²	13431, ² 13432	tomato puree _____	13472
Shimko, Mrs. John:		Vrooman, George B., Inc.:	
blueberries _____	13451	tomato puree _____	13472
Smith, C. T.:		Wartnik, Harry:	
canned tomatoes _____	13469	candy _____	13414
Smith, P. B.:		Washington Frosted Foods, Inc.:	
Nature's Minerals Compound		frozen broccoli _____	13466
and High Potency Vitamin B		Wassell Bakery, Inc.:	
Complex tablets _____	13483	coffee cake and pies _____	13363
Smith Canning Co. <i>See</i> Smith,		Wenatchee Foods, Inc.:	
C. T.		canned pears _____	13445
Spadafora, A. L., and Emil:		Whitten Bros. Canning Co.:	
macaroni products _____	13394	canned tamales _____	13499
Springfield Milling Corp.:		Wilder Coop. Creamery Co.:	
flour _____	13380	butter _____	13424
		Woodgate, L. B.:	
		crackers and cracker meal _____	13360

² (13431, 13432, 13489, 13491) Prosecution contested.



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